

1 shall be fined an amount not to exceed four thousand dollars (\$4,000) or an
2 amount equal to the sum of all uninsured and unsatisfied claims brought under
3 the provisions of KRS Chapter 342 and unemployment insurance claims for
4 which no wages were reported as required by KRS Chapter 341, whichever is
5 greater.

6 (c) The penalty imposed in paragraph (b) of this subsection shall be enforced by
7 the county attorney for the county in which the violation occurred.

8 (11) A certified electrical inspector shall be employed by, or contracted for, or contracted
9 with a local government having responsibility over buildings as set out in this
10 section as part of its building inspection program. After a certified electrical
11 inspector has been provided for by the local government or the department~~{office}~~,
12 no utility shall initiate permanent electrical service to any new building, or any
13 building which has been moved, until a final certificate of approval has been issued
14 by a certified electrical inspector. Unless the department~~{office}~~ shall notify the
15 utility in writing as to which buildings are subject to department~~{office}~~ approval, it
16 shall be presumed by the utility that the building is subject to the jurisdiction of the
17 local government. However, nothing in this section shall prohibit the supply or use
18 of necessary electrical services during the construction and testing process.

19 (12) This section shall apply to industrialized building systems, but destructive
20 disassembly of industrialized building systems which carry a seal of approval
21 pursuant to a manufactured building law in the state in which they were
22 manufactured, which seal of approval is accepted by the Board of Housing,
23 Buildings and Construction, shall not be performed in order to conduct the tests or
24 inspections.

25 (13) No building on which construction was begun nor any industrialized building
26 system on which site preparation and assembly were begun after the Uniform State
27 Building Code became effective shall be occupied until the local building official or

1 a representative of the department~~[office]~~ issues a certificate of occupancy
 2 certifying that the building was constructed in conformance with the standards of
 3 the Uniform State Building Code, or assembled or installed in conformance with
 4 applicable instructions. Nothing in this subsection shall be construed to require a
 5 certificate of occupancy to be issued for any single-family dwelling unless a local
 6 government has established jurisdiction for the enforcement of the Uniform State
 7 Building Code under this section.

8 (14) A local government may associate with other local governments, and may seek the
 9 technical assistance of other agencies or area development districts in order to
 10 provide for the local enforcement of the Uniform State Building Code.

11 (15) Local governments or associations of local governments may contract with a
 12 person, firm, or company to perform the plans and specifications inspection or
 13 building inspection functions required of the local government by the provisions of
 14 this section if:

15 (a) The person performing the plans and specifications inspection is certified by
 16 the department~~[office]~~ as having successfully completed the test requirements
 17 provided by KRS 198B.090 to practice as a certified plans and specifications
 18 inspector;

19 (b) The person performing the building inspection is certified by the
 20 department~~[office]~~ as having successfully completed the test requirements
 21 provided in KRS 198B.090 to practice as a certified building inspector;

22 (c) The person, firm, or company does not have a conflict of interest between its
 23 plan review or inspection functions and any other employment or business
 24 activities;

25 (d) The person performing the plumbing inspection is certified by the
 26 department~~[office]~~ as having successfully completed the requirements
 27 provided in KRS 318.140 to practice as a certified plumbing inspector; and

1 (e) The person, firm, or company does not have a conflict of interest between its
 2 plan review or inspection functions and any other employment or business
 3 activities.

4 (16) If the department{office} has reason to believe that an inspector is not enforcing, or
 5 is improperly enforcing, the provisions of the Kentucky building codes, it shall
 6 conduct an informal hearing to review the inspector's procedures and return in
 7 written form the required corrections resulting from the hearing to the inspector, or
 8 may take action to suspend or revoke the inspector's certificate.

9 (17) If, after written notification from the department{office} to the inspector of any
 10 corrections required, the inspector fails to comply within sixty (60) days, the
 11 department{office} shall suspend the inspector's certification until the inspector
 12 complies. Any action to suspend or revoke an inspector's certificate may be
 13 appealed to the board, and upon appeal an administrative hearing shall be conducted
 14 in accordance with KRS Chapter 13B.

15 (18) Each local government and the department{office} may establish a schedule of fees
 16 for the functions performed under the provisions of this chapter. The fees shall be
 17 designed to fully cover the cost of the service performed but shall not exceed the
 18 cost of the service performed. Fees payable to the department{office} shall be paid
 19 into the State Treasury and credited to a trust and agency fund to be used by the
 20 department{office} in carrying out the provisions of this chapter. No part of this
 21 fund shall revert to the general fund of the Commonwealth.

22 ➔Section 251. KRS 198B.070 is amended to read as follows:

23 (1) The mayor or county judge/executive of a local government which is enforcing the
 24 Uniform State Building Code may, upon the approval of the local legislative body,
 25 appoint a local appeals board, consisting of five (5) technically qualified persons
 26 with professional experience related to the building industry, to hear appeals from
 27 the decisions of the local building official. At least three (3) members of the appeals

- 1 board must not be employed by the local government hearing the appeal.
- 2 (2) Local governments which are enforcing the Uniform State Building Code may
3 cooperate with each other to provide a local appeals board and shall adhere to the
4 provisions of KRS Chapter 65 when entering such cooperative agreements. No local
5 building official or employee of a local inspection department may sit on a local
6 appeals board if the board is hearing an appeal to a decision rendered by his or her
7 department. No member of a local appeals board shall hear an appeal in a case in
8 which he or she has a private interest.
- 9 (3) Any party to a decision by the local building official may appeal that decision to the
10 local appeals board. Upon receipt of an appeal from a qualified party, the local
11 appeals board shall convene a hearing to consider the appeal within fifteen (15)
12 days of receipt. All parties to the appeal shall be notified of the time and place of
13 the hearing by letter mailed by certified mail no later than ten (10) days prior to the
14 date of the hearing. The local appeals board shall render a decision within five (5)
15 working days after the hearing.
- 16 (4) A local appeals board may uphold, amend, or reverse the decision of a local
17 building official, and there shall be no appeal from the decision of a local appeals
18 board other than by appeal to the Board of Housing, Buildings and Construction.
19 Appeals to the Board of Housing, Buildings and Construction shall include citation
20 of those provisions of the Uniform State Building Code which are at issue, and an
21 explanation of why the decision of the local appeals board or the local building
22 official relative to those provisions is being contested.
- 23 (5) The Board of Housing, Buildings and Construction shall serve to hear appeals from
24 the decisions of local appeals boards, when these boards exist, or to hear appeals
25 directly from the decisions of local building officials in cases where no local
26 appeals board has jurisdiction. In no case shall the board hear an appeal directly
27 from a party aggrieved by the decision of a local building official when there is a

1 local appeals board with jurisdiction in the case.

2 (6) The board shall hear appeals directly from a party aggrieved by the decision of an
3 agent of the department~~{office}~~. These appeals shall include citations of those
4 provisions of the Uniform State Building Code which are at issue, and an
5 explanation of why the decision of the agent of the department~~{office}~~ relative to
6 those provisions is being contested.

7 (7) Appeals to the Board of Housing, Buildings and Construction shall be addressed to
8 the commissioner~~{executive director}~~ who shall immediately notify the board when
9 an appeal is received. The commissioner~~{executive director}~~ or a designated
10 employee of his or her department~~{office}~~ shall then investigate the evidence
11 pertaining to the appeal and, based upon the results of the investigation, make
12 recommendations to the board on the disposition of the case in question. No
13 employee of the department~~{office}~~ shall investigate or make recommendations on
14 an appeal to his or her own decision, but shall defer in such cases to employees who
15 were not party to the decision which led to the appeal. In conducting an
16 investigation, the commissioner~~{executive director}~~ or his or her designated
17 representatives, acting for the department~~{office}~~, shall have the authority to
18 administer oaths and affirmations, issue subpoenas authorized by law, rule upon
19 offers of proof and receive relevant evidence, take or cause depositions to be taken,
20 regulate the course of any informal or fact-finding hearings they may schedule, and
21 hold conferences for the settlement or simplification of the issues by consent of the
22 parties. The commissioner~~{executive director}~~ shall complete his or her
23 investigations and forward a written report to the board within thirty (30) days after
24 receiving an appeal.

25 (8) If the matter is not settled by agreement of the parties through the procedure
26 established in subsection (7) of this section, the board shall schedule an
27 administrative hearing that shall be conducted in accordance with KRS Chapter

1 13B.

2 (9) The board may appoint five (5) or more of its members, excluding the chairman of
3 the board, to conduct the hearing, and those so appointed shall act in all matters
4 concerning the appeal for the entire board.

5 (10) The board may uphold, amend, or reverse the decision of a local appeals board, a
6 local building official, or an agent of the department~~[office]~~ by final order, and
7 appeal from the board's final order shall be to the Circuit Court within whose
8 jurisdiction the property in question is located in accordance with KRS Chapter
9 13B.

10 ➔Section 252. KRS 198B.080 is amended to read as follows:

11 (1) Any interested party may suggest amendments to the Uniform State Building Code
12 to the Department~~[Office]~~ of Housing, Buildings and Construction. The
13 department~~[office]~~ shall transmit all suggested amendments to the board with
14 recommendations on the advisability of the suggested amendments.

15 (2) The board may amend the Uniform State Building Code at any time, but only after
16 notice in accordance with KRS Chapter 13A. Such amendments shall be effective
17 statewide.

18 (3) No amendment shall violate the performance orientation of the code, favor certain
19 materials or suppliers, or weaken the life safety features of the Uniform State
20 Building Code as specified in KRS 198B.050(3).

21 ➔Section 253. KRS 198B.090 is amended to read as follows:

22 (1) On or before July 1, 1983, the department~~[office]~~ shall create and administer a
23 certification program with sufficient testing procedures to certify the following
24 professional classifications:

- 25 (a) Building inspector;
- 26 (b) Plans and specifications inspector; and
- 27 (c) Plumbing inspector.

- 1 (2) The testing procedures shall be sufficient to reflect the ability of the person applying
2 for certification to inspect in accordance with those local, state, and federal building
3 codes, fire codes, plumbing codes, or health and safety codes, that are applicable to
4 the inspection duties for which he or she requests certification.
- 5 (3) The department~~[office]~~ shall conduct or sponsor preentry and in-service education
6 and training programs on the technical, legal, and administrative aspects of building
7 code administration and enforcement. For this purpose it may cooperate and
8 contract with educational institutions, area development districts, local, regional,
9 state or national building officials' organizations, and any other appropriate
10 organization.
- 11 (4) On or before July 1, 1983, the department~~[office]~~ shall create and administer an
12 educational program designed to prepare building officials, code enforcement
13 officers and other persons interested in obtaining from the department~~[office]~~ a
14 certification as a building inspector, plans and specifications inspector, or plumbing
15 inspector. The program shall be so designed as to insure uniform statewide
16 enforcement of the applicable state building and plumbing codes. Training material
17 coverage shall be adequate to prepare the participants with a working knowledge of
18 construction design, specification terms, and the state building codes applicable to
19 the particular field in which the applicant requests certification.
- 20 (5) Plumbing inspectors who are in compliance with KRS 318.090 as state inspectors
21 and KRS 318.140 as city-county inspectors, shall be considered in accordance with
22 subsections (1)(c) and (2) of this section and shall not be required to be retested by
23 the department~~[office]~~ prior to consideration for certification as a plumbing
24 inspector. The department~~[office]~~ shall review the plumbing inspector's
25 qualifications and credentials for compliance with KRS 318.090 or 318.140 prior to
26 issuing a certification to the inspector's certificate applicant.
- 27 (6) Attendance at the training sessions shall not be mandatory prior to testing for

1 certification if the applicant's previous education or experience qualifies the
 2 applicant to obtain a passing score on the required certification test.

3 (7) Training sessions shall be held as frequently as is felt necessary by the
 4 commissioner~~executive director~~ to adequately provide for local and state building
 5 inspection needs.

6 (8) The department's~~office's~~ plans and specifications review staff and the field
 7 inspection staff shall attend the training and become certified in accordance with the
 8 provisions of this section.

9 (9) All building inspectors, plans and specification inspectors, and plumbing inspectors
 10 shall be certified or enrolled and actively pursuing department~~office~~ certification
 11 by October 1, 1983, or within ninety (90) days after employment as an inspector,
 12 whichever comes later.

13 (10) The board shall establish a schedule of fees to cover the cost of the education,
 14 testing, and certification programs to be paid by the applicants for certification. The
 15 fees shall not exceed the actual cost of the services performed by the
 16 department~~office~~ to administer the programs listed in this section.

17 (11) The department~~office~~ may reimburse building officials, code enforcement officers
 18 and other employees of the state and its subdivisions for related expenses incurred
 19 by them for attendance at in-service training programs approved by the
 20 department~~office~~.

21 ➔Section 254. KRS 198B.095 is amended to read as follows:

22 (1) The Board of Housing, Buildings and Construction may establish a building
 23 inspectors training program through the promulgation of administrative regulations
 24 in accordance with the provisions of KRS Chapter 13A. The program shall provide
 25 training to encourage local governments to establish and improve building code
 26 enforcement programs and to encourage all building inspectors to upgrade their
 27 skills.

1 (2) If the board chooses to establish the program authorized in subsection (1) of this
 2 section, there shall be created in the Department~~{Office}~~ of Housing, Buildings and
 3 Construction, under the Board of Housing, Buildings and Construction, a trust and
 4 agency fund to be known as the "Building Inspectors' Financial Incentive Training
 5 Program Fund". The fund shall be funded annually with a maximum of one hundred
 6 fifty thousand dollars (\$150,000) by increasing the department's~~{office's}~~ plan
 7 review fees collected for each occupancy classification under KRS 198B.060 by
 8 one-half cent (\$.005) per calculated square foot. Any funds collected annually in
 9 excess of one hundred fifty thousand dollars (\$150,000) shall be used solely for the
 10 administration of the department's~~{office's}~~ building inspection program. Any
 11 unused fund balance at the close of the fiscal year shall not lapse but shall be carried
 12 forward to the next fiscal year, and moneys in the fund shall be available only for
 13 the purposes specified in this section.

14 ➔Section 255. KRS 198B.110 is amended to read as follows:

- 15 (1) In all local governments in a county containing a city of the first or second class,
 16 and in urban-county governments, the Uniform State Building Code shall become
 17 effective six (6) months after promulgation by the board. Any of said local
 18 governments may adopt the code prior to that time.
- 19 (2) In all local governments in a county containing a city of the third or fourth class, but
 20 not a city of the first or second class, the Uniform State Building Code, as it pertains
 21 to buildings for which the department~~{office}~~ has the responsibility for plan
 22 reviews, shall become effective six (6) months after promulgation by the board and
 23 as it pertains to buildings for which local governments have responsibility for plan
 24 review shall become effective two (2) years after promulgation by the board. Any of
 25 said local governments may adopt the code prior to such times.
- 26 (3) In all local governments in a county containing no city or a city of the fifth or sixth
 27 class, but not a city of the first through fourth classes, the Uniform State Building

Code as it pertains to buildings for which the department~~[office]~~ has the responsibility for plan reviews shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three (3) years after promulgation by the board. Any of said governments may adopt the code prior to such times.

(4) Notwithstanding the provisions of KRS 198B.060(8) and (9), a building for which a permit was legally granted prior to the effective date of the Uniform State Building Code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(5) A building for which plans were prepared at least three (3) months prior to the effective date of the Uniform State Building Code and upon which construction was begun prior to the effective date of the Uniform State Building Code in a locality not then requiring a building permit may be completed and occupied without a building permit.

→ Section 256. KRS 198B.120 is amended to read as follows:

The department~~[office]~~ or any local government agency enforcing the Uniform State Building Code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department~~[office]~~ or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of this chapter or the Uniform State Building Code.

→ Section 257. KRS 198B.200 is amended to read as follows:

(1) There is hereby created the Kentucky Single Family Dwellings Advisory

1 Committee, which shall be attached to the Department~~{Office}~~ of Housing,
2 Buildings and Construction for administrative purposes.

3 (2) The committee shall be composed of eight (8) members as follows:

4 (a) Three (3) members who shall be home builders appointed by the Governor
5 from a list of six (6) nominees submitted by the Home Builders Association of
6 Kentucky. Each nominee shall have been actively engaged in the home
7 building business for not less than five (5) years immediately preceding the
8 date of his or her appointment to the committee;

9 (b) Three (3) members who shall be certified code inspectors appointed by the
10 Governor from a list of six (6) nominees submitted by the Code
11 Administrators Association of Kentucky. Each nominee shall have been
12 actively engaged as a certified code inspector for not less than five (5) years
13 immediately preceding the date of his or her appointment to the committee;

14 (c) One (1) member who shall be an architect appointed by the Governor from a
15 list of three (3) nominees submitted by the Kentucky Chapter of the American
16 Society of Architects. Each nominee shall have been actively engaged as a
17 licensed architect for not less than five (5) years immediately preceding the
18 date of his or her appointment to the committee; and

19 (d) The commissioner~~{executive director}~~ of the Department~~{Office}~~ of Housing,
20 Buildings and Construction, or his or her designee.

21 (3) Each member of the committee shall be a citizen and resident of the
22 Commonwealth of Kentucky.

23 (4) (a) Appointed members shall serve staggered terms of three (3) years that shall
24 expire on June 30 of the final year of the term, except that, of the initial
25 appointments, three (3) members shall serve for a term of three (3) years, two
26 (2) members shall serve for a term of two (2) years, and two (2) members
27 shall serve for a term of one (1) year.

- 1 (b) The commissioner~~[executive director]~~ of the Department~~[Office]~~ of Housing,
 2 Buildings and Construction shall serve on the committee for the duration of
 3 his or her term of appointment to that state government position.
- 4 (c) No member shall serve more than two (2) consecutive terms.
- 5 (d) Members may serve until their successors are appointed and qualified.
- 6 (e) A vacancy in an unexpired term shall be filled in the same manner as the
 7 original appointment.
- 8 (5) The commissioner~~[executive director]~~ of the Department~~[Office]~~ of Housing,
 9 Buildings and Construction, or his or her designee, shall serve as chair of the
 10 committee.
- 11 (6) A majority of the members of the committee shall constitute a quorum for
 12 conducting business.
- 13 (7) The committee shall meet at least once each calendar quarter in a location
 14 designated by the chair. The committee may meet upon special call by the chair or
 15 by a majority of the committee.
- 16 (8) Each appointed member listed in subsection (2)(a), (b), and (c) of this section shall
 17 receive twenty-five (\$25) dollars per diem for attending each meeting and shall be
 18 reimbursed for actual and necessary expenses incurred in the performance of his or
 19 her official duties. The commissioner~~[executive director]~~ of the
 20 Department~~[Office]~~ of Housing, Buildings and Construction shall not be eligible
 21 for a per diem.
- 22 (9) The duties of the Kentucky Single Family Dwellings Advisory Committee shall be
 23 to:
- 24 (a) Review and interpret the International Building Code and make
 25 recommendations to the Kentucky Board of Housing, Buildings and
 26 Construction as to which elements of the international code should be
 27 incorporated into the Kentucky State Residential Building Code; and

(b) Perform any other duties and responsibilities relating to the topic of single family dwellings that may be assigned by the Kentucky Board of Housing, Buildings and Construction.

➔Section 258. KRS 198B.250 is amended to read as follows:

(1) There is hereby created an Architectural Barriers Advisory Committee which shall be attached to the Department~~{Office}~~ of Housing, Buildings and Construction for administrative purposes. The committee members shall be appointed by the Governor to serve a term of two (2) years and shall be constituted as follows: three (3) persons having a physical disability, one (1) citizen at large, and the public advocate or his designee.

(2) The committee shall meet at least quarterly or upon request of the board for the purposes of considering matters relating to accessibility and safety in facilities for persons with physical disabilities. The committee shall make recommendations to and otherwise advise the department~~{office}~~ and the board on these matters.

(3) The committee members will receive no compensation for their services, but will be reimbursed for their necessary travel expenses.

➔Section 259. KRS 198B.300 is amended to read as follows:

As used in KRS 198B.310 to 198B.330:

(1) "Safety glazing material" means any glazing material, such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of ANSI Standard Z-97.1-1966 and such further requirements as may be adopted by the Department~~{Office}~~ of Housing, Buildings and Construction and which is so constructed, treated, or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material;

(2) "Hazardous locations" means those installations, glazed or to be glazed, in residential, commercial and public buildings known as sliding glass doors, framed

1 or unframed glass doors and adjacent fixed glazed panels which may be mistaken
 2 for means of ingress or egress, storm doors, shower doors, and tub inclosures,
 3 whether or not the glazing in such doors, panels or inclosures is transparent, and in
 4 any other area wherein the use of other than safety glazing materials would
 5 constitute a hazard.

6 ➔Section 260. KRS 198B.310 is amended to read as follows:

- 7 (1) Each light of safety glazing material manufactured, distributed, imported, or sold
 8 for use in hazardous locations or installed in such a location within the
 9 Commonwealth of Kentucky shall be permanently labeled by such means as
 10 etching, sandblasting or firing ceramic material on the safety glazing material. The
 11 label shall identify the labeler, whether manufacturer, fabricator or installer, and the
 12 nominal thickness and the type of safety glazing material and the fact that said
 13 material meets the test requirements of ANSI Standard Z-97.1-1966 and such
 14 further requirements as may be adopted by the Department~~{Office}~~ of Housing,
 15 Buildings and Construction. The label must be legible and visible after installation.
- 16 (2) Such safety glazing labeling shall not be used on other than safety glazing materials.

17 ➔Section 261. KRS 198B.400 is amended to read as follows:

18 As used in KRS 198B.410 to 198B.540, unless the context otherwise requires:

- 19 (1) "Elevator" means all the machinery, construction, apparatus, and equipment used in
 20 raising and lowering a car, cage, or platform vertically between permanent rails or
 21 guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators,
 22 and other lifting or lowering apparatus permanently installed between rails or
 23 guides, but does not include hand operated dumbwaiters, manlifts of the platform
 24 type with a platform area not exceeding nine hundred square inches, construction
 25 hoists, or other similar temporary lifting or lowering apparatus.
- 26 (2) "Passenger elevator" means an elevator that is designed to carry persons to its
 27 contract capacity.

- 1 (3) "Freight elevator" means an elevator used for carrying freight and on which only the
 2 operator, by the permission of the employer, is allowed to ride.
- 3 (4) "General inspector" means a state inspector examined and hired to inspect elevators
 4 for the Department{Office} of Housing, Buildings and Construction.
- 5 (5) "Special inspector" means an inspector examined and certified by the
 6 department{office} to inspect elevators in the state.
- 7 (6) "Inspector" means either a general or special inspector.
- 8 (7) "Department{Office}" means the Department{Office} of Housing, Buildings and
 9 Construction.
- 10 (8) "Certificate of operation" is a certificate issued by the department{office}
 11 authorizing the operation of an elevator which must be conspicuously posted on the
 12 elevator at all times.
- 13 (9) "Escalator" means a moving stairway consisting of steps attached to a continuously
 14 circulating belt that is used to move persons from one (1) level to another.
- 15 (10) "Moving sidewalk" means horizontal flat panels attached to a continuously
 16 circulating belt used to move people.
- 17 (11) "Fixed guideway system" means any nonrail system, funicular, or automated people
 18 mover, either air-suspended or wheeled, that is not regulated by the Federal Transit
 19 Administration.

20 ➔Section 262. KRS 198B.410 is amended to read as follows:

- 21 (1) No person may act either as a general inspector or as a special inspector of elevators
 22 or fixed guideway systems unless he or she holds a certificate of competency from
 23 the department{office}.
- 24 (2) Application for examination as an inspector of elevators shall be in writing,
 25 accompanied by a fee of ten dollars (\$10), upon a blank to be furnished by the
 26 department{office}, stating the school education of the applicant, a list of his or her
 27 employers, his or her period of employment, and the position held with each. An

1 applicant shall also submit a letter from one (1) or more of his or her previous
2 employers certifying as to his or her character and experience.

3 (3) Applications shall be rejected which contain any willful falsification or untruthful
4 statements. The applicant, if the department~~[office]~~ deems his or her history and
5 experience sufficient, shall be tested by means of a written examination dealing
6 with the construction, installation, operation, maintenance, and repair of elevators
7 and their appurtenances, and the applicant shall be accepted or rejected on the
8 merits of his or her application and examination.

9 (4) The department~~[office]~~ shall promulgate administrative regulations establishing the
10 training and certification requirements for inspectors of fixed guideway systems.

11 (5) The department~~[office]~~ shall issue a certificate of competency in the inspection of
12 elevators to any applicant found competent upon examination. A rejected applicant
13 shall be entitled, after the expiration of ninety (90) days, and upon payment of an
14 examination fee of ten dollars (\$10), to another examination. Should an applicant
15 fail to pass the prescribed examination on second trial, he or she will not be
16 permitted to be an applicant for another examination for a period of one (1) year
17 after the second failure.

18 ➔Section 263. KRS 198B.420 is amended to read as follows:

19 (1) The department~~[office]~~ shall administer all aspects of the State Elevator and Fixed
20 Guideway System Inspection Program.

21 (2) The program shall be directed by a person with at least five (5) years' experience in
22 the inspection or construction, installation, maintenance, and repair of elevators and
23 their appurtenances.

24 (3) The commissioner~~[executive director]~~ of housing, buildings and construction may
25 appoint and hire, from the holders of certificates of competency, general inspectors
26 of elevators.

27 ➔Section 264. KRS 198B.440 is amended to read as follows:

1 A certificate to serve as an inspector issued under KRS 198B.410 may be suspended or
 2 revoked by the department{office} for the incompetence or untrustworthiness of the
 3 holder thereof, or for the falsification of any matter or statement contained in his or her
 4 application or in a report of any inspection.

5 →Section 265. KRS 198B.450 is amended to read as follows:

6 If a certificate is lost or destroyed a new one shall be issued in its place by the
 7 department{office} without another examination, upon the payment of a fee of one dollar
 8 (\$1).

9 →Section 266. KRS 198B.460 is amended to read as follows:

10 The owner or user of any elevator or fixed guideway system shall register with the
 11 department{office} every elevator or fixed guideway system operated by him or her,
 12 giving the type, capacity, description, name of manufacturer, and purpose for which each
 13 is used. The registration shall be made on a form to be furnished by the
 14 department{office}.

15 →Section 267. KRS 198B.480 is amended to read as follows:

16 (1) Every inspector shall forward to the department{office} a full report of each
 17 inspection made of any passenger elevator or fixed guideway system, showing the
 18 exact condition of the elevator or fixed guideway system, and the inspector shall
 19 leave a copy of the report at the elevator or fixed guideway system on the day the
 20 inspection is completed.

21 (2) If any passenger elevator or fixed guideway system requires certain changes or
 22 repairs to make it reasonably safe to operate, recommendations shall be made by the
 23 inspector upon his or her report and a copy of the report as approved by the
 24 department{office} shall be given to the owner or operator of the elevator or fixed
 25 guideway system, and, unless appealed, upon compliance therewith and upon the
 26 payment of the fees required by law, the department{office} shall issue a certificate
 27 of operation for a capacity not to exceed that named in the report of inspection,

- 1 which certificate shall be valid for one (1) year after the date of inspection.
- 2 (3) If construction plans or an application of specifications is not approved, the
3 department~~{office}~~ shall state in writing the necessary changes to obtain approval
4 and the owner or operator shall be given a copy thereof, and, unless appealed, upon
5 compliance therewith, the department~~{office}~~ shall approve the plans or
6 specifications and issue a permit for construction.
- 7 (4) Any owner or operator, within twenty (20) days from receipt of the copy of the
8 report or statement of changes in plans or specifications, may make written
9 application to the department~~{office}~~ upon forms to be furnished by the
10 department~~{office}~~ for a hearing on the report or the statement regarding changes in
11 plans or specifications as to whether the elevator or fixed guideway system in
12 question is reasonably safe, or whether the elevator or fixed guideway system, if
13 constructed in accordance with the plans and specifications, would be reasonably
14 safe. The department~~{office}~~ shall promptly consider the application and schedule a
15 hearing to be conducted consistent with the provisions of this section and KRS
16 Chapter 13B.
- 17 (5) If it appears from the evidence presented at the hearing that the elevator or fixed
18 guideway system will be reasonably safe to operate without those changes or repairs
19 shown in the report or by making only a part or all thereof, or if none or only a part
20 of all the changes in the plans or specifications are found necessary to make the
21 elevator reasonably safe, the department~~{office}~~ shall issue its final order
22 accordingly. If the final order requires changes or repairs to be made in the elevator
23 or fixed guideway system or changes in the plans or specifications of either, the
24 department~~{office}~~ shall, upon the payment of the required fees, issue a certificate
25 of operation when the order has been executed or issue its approval of the plans or
26 specifications. If the final order of the department~~{office}~~ has been affirmed or
27 modified by appeal on the grounds of reasonable safety considered by the

1 department~~[office]~~, then the department~~[office]~~ shall, upon compliance with the
 2 final order and the payment of required fees, issue the certificate of operation or
 3 issue its approval of the plans and specifications; but, if the order of the
 4 department~~[office]~~ has been vacated, the certificate of operation, upon the payment
 5 of fees or approval of plans and specifications, shall be issued forthwith. No
 6 elevator or fixed guideway system shall be operated after being inspected without
 7 having a certificate of operation conspicuously posted thereon, except pending a
 8 hearing on the issuance thereof.

9 ➔Section 268. KRS 198B.490 is amended to read as follows:

10 The commissioner~~[executive director]~~ of housing, buildings and construction shall make,
 11 alter, amend, and repeal rules and regulations exclusively for the safety and inspection of
 12 passenger elevators and fixed guideway systems. The commissioner~~[executive director]~~
 13 shall have the authority to prescribe, by regulation, the fee to be charged for each
 14 inspection. All fees established and regulated by this section shall be payable to the
 15 department~~[office]~~ except as may be provided in a specific written agreement between
 16 the commissioner~~[executive director]~~ and any agency authorized to inspect elevators or
 17 fixed guideway systems by the provisions of this chapter.

18 ➔Section 269. KRS 198B.510 is amended to read as follows:

19 No certificate of operation for any passenger elevator or fixed guideway system shall be
 20 issued until the elevator or fixed guideway system has been inspected and the report
 21 thereof filed with the department~~[office]~~. The certificate of operation, when issued, shall
 22 bear the date of inspection, and shall be renewed as of the date of the subsequent
 23 inspection, provided the inspection is made at least one (1) year after the issuance of such
 24 certificate. If the inspection is made during the year the certificate is in force, the renewal
 25 date shall be one (1) year from the date of the certificate being renewed and the renewal
 26 certificate shall show the date of inspection.

27 ➔Section 270. KRS 198B.520 is amended to read as follows:

1 Before any new installation of an elevator or fixed guideway system of permanent nature
 2 shall be erected or before any existing elevator is removed to a different location, an
 3 application of specifications in duplicate shall be submitted to the department{office}
 4 giving such information concerning the construction, installation, and operation of said
 5 elevator or fixed guideway system as the department{office} may require on forms to be
 6 furnished by the department{office}, together with complete construction plans in
 7 duplicate. In all cases where any changes or repairs are made which alter its construction
 8 or classification, grade, or rated lifting capacity, except when made pursuant to a report of
 9 an inspector, an application of specifications in duplicate shall be submitted to the
 10 department{office} containing such information for approval, except for elevators in
 11 those municipal corporations which maintain their own elevator inspection departments,
 12 in which event the specifications shall be submitted to the elevator department of the
 13 municipal corporation for its approval and, if approved, a permit for the erection or repair
 14 of the elevator shall be issued by the municipal corporation. Upon approval of the
 15 application and construction plans, the department{office} shall issue a permit for the
 16 erection or repair of the elevator or fixed guideway system. No new elevator or fixed
 17 guideway system shall be operated until completion in accordance with the approved
 18 plans and specifications, unless a temporary permit is granted by the department{office}.

19 ➔Section 271. KRS 198B.530 is amended to read as follows:

20 No person shall violate any law relative to the operation, construction, maintenance, and
 21 repair of passenger elevators or fixed guideway systems. All fines collected for a
 22 violation of this section shall be forwarded to the department{office}, which shall pay the
 23 same into the State Treasury to the credit of the general revenue fund.

24 ➔Section 272. KRS 198B.540 is amended to read as follows:

25 (1) If the department's{office's} inspector of elevators and fixed guideway systems or a
 26 general inspector of elevators or fixed guideway systems finds that a passenger
 27 elevator, fixed guideway system, or a part thereof does not afford reasonable safety,

1 the department{office} or the general inspector may post a notice upon the elevator
 2 or fixed guideway system prohibiting further use of the elevator or fixed guideway
 3 system until the changes or alterations set forth in the notice have been made to the
 4 satisfaction of the department{office} or the inspector. Said notice shall contain a
 5 statement that operators or passengers are subject to injury by its continued use, a
 6 description of the alteration or other change necessary to be made in order to secure
 7 safety of operation, date of the notice, and name and signature of the
 8 department{office} or inspector issuing the notice.

9 (2) If any inspector of elevators or fixed guideway systems finds a passenger elevator or
 10 fixed guideway system to be so unsafe as can be reasonably expected to offer
 11 imminent danger of death or physical injury, that unit shall be sealed out of service,
 12 a hazard notice posted thereon, and the department{office} shall be notified
 13 immediately as to the location and condition of the unit.

14 (3) Any passenger elevator or fixed guideway system, once sealed, shall not be operated
 15 except for the purpose of effecting repairs and in the manner prescribed by the
 16 department{office}, until all defects are corrected and the unit has been inspected
 17 and certified as safe by the department{office}.

18 (4) Sealing shall consist of rendering a passenger elevator unit or fixed guideway
 19 system inoperable by disconnecting power and/or by placing a sealing device on the
 20 operation switch and ordering additional measures to be effected by the owner, such
 21 as erection of barricades, as may be required to prevent use of or public access to
 22 the unit.

23 (5) No seal, notice, or barricade placed on or around an elevator or fixed guideway
 24 system in accordance with the provisions of this chapter shall be removed,
 25 obstructed or in any way altered without the written consent of the
 26 department{office}.

27 ➔Section 273. KRS 198B.550 is amended to read as follows:

1 As used in KRS 198B.555 to 198B.630, unless the context requires otherwise:

- 2 (1) "Department~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and
3 Construction.
- 4 (2) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~
5 of the department~~[office]~~.
- 6 (3) A "fire protection sprinkler contractor" is a person engaged in the preparation of
7 technical drawings, installation, repair, alteration, extension, maintenance or
8 inspection of fire protection sprinkler systems and has in his or her employment a
9 certificate holder.
- 10 (4) A "fire protection sprinkler contractor's license" is the license issued by the
11 commissioner~~[executive director]~~ to a fire protection sprinkler contractor upon
12 application being approved, fee paid and the satisfactory completion of the
13 requirements of KRS 198B.580. The license shall be issued in the name of the fire
14 protection sprinkler contractor with the name or names of the certificate holder
15 noted thereon.
- 16 (5) A "certificate holder" is an individual who has satisfactorily met and has received a
17 certificate from the commissioner~~[executive director]~~ under the provisions of KRS
18 198B.570.
- 19 (6) A "fire protection sprinkler system" is a system of piping for which technical
20 drawings have been prepared by or preparation supervised by a certificate holder in
21 accordance with fire protection engineering standards. The system is supplied from
22 a reliable, constant, and sufficient water, gas, or chemical supply, such as a gravity
23 tank, fire pump, reservoir, or pressure tank, or connection by underground piping to
24 a city, county, municipal water district, authorized water main, or both. The
25 sprinkler system is considered the fire protection sprinkler system for purposes of
26 KRS 198B.550 to 198B.630, and is a network of specially sized or hydraulically
27 designed piping installed overhead and underground in a building, structure, or area,

and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas, or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the department~~[office]~~.

→ Section 274. KRS 198B.555 is amended to read as follows:

(1) The administration of KRS 198B.550 to 198B.630 is vested in the Department~~[Office]~~ of Housing, Buildings and Construction.

(2) The commissioner~~[executive director]~~ shall:

(a) Promulgate reasonable administrative regulations necessary for the administration of KRS 198B.550 to 198B.630;

(b) Set or make reasonable changes in the fees charged for permits, testing, and other aspects of the administration of KRS 198B.550 to 198B.630;

(c) Enforce the provisions of KRS 198B.550 to 198B.630; and

(d) Conduct investigations of complaints and conduct administrative hearings as are required by KRS 198B.620 and 198B.625 and in accordance with the provisions of KRS Chapter 13B.

(3) The commissioner~~[executive director]~~ may:

(a) Secure the advice of the Board of Housing, Buildings~~[Building]~~ and Construction with regard to administrative regulations;

(b) Have the competency test prepared by a source other than the commissioner~~[executive director]~~.

→ Section 275. KRS 198B.565 is amended to read as follows:

1 (1) The design for any fire protection sprinkler system for buildings and structures shall
 2 be prepared by a licensed professional engineer or, if the licensed, professional
 3 engineer chooses not to prepare the design, a licensed fire protection sprinkler
 4 contractor whose certificate holder is a certified engineering technician, NICET
 5 Level III or Level IV, may prepare the design.

6 (2) When a fire protection sprinkler system is designed by a professional engineer in
 7 accordance with subsection (1) of this section, the licensed fire protection sprinkler
 8 contractor shall submit to the professional engineer, for his approval, technical
 9 drawings and, when required, hydraulic calculations for the installation of the fire
 10 protection sprinkler system. Such technical drawings, after approved by the
 11 professional engineer, shall be submitted by the professional engineer to the
 12 Department~~{Office}~~ of Housing, Buildings and Construction, the insurance
 13 authority having jurisdiction, if any, and other authority when required by Kentucky
 14 law.

15 (3) When a fire protection sprinkler system is designed by a licensed fire protection
 16 sprinkler contractor in accordance with subsection (1) of this section, the licensed
 17 fire protection sprinkler contractor shall submit such design and detailed plans to
 18 the Department~~{Office}~~ of Housing, Buildings and Construction, the insurance
 19 authority having jurisdiction, if any, and other authority when required by Kentucky
 20 law.

21 ➔Section 276. KRS 198B.570 is amended to read as follows:

22 To become a certificate holder under KRS 198B.560, an applicant must satisfactorily pass
 23 a current examination prescribed and administered by the National Institute for
 24 Certification in Engineering Technologies entitled Fire Protection Engineering
 25 Technology Automatic Sprinkler System Design Level III, or the equivalent thereof,
 26 approved by the commissioner~~{executive director}~~.

27 ➔Section 277. KRS 198B.580 is amended to read as follows:

1 To become a licensed fire protection sprinkler contractor under KRS 198B.560, a person
2 must comply with the following:

- 3 (1) Must have in his employ a certificate holder;
- 4 (2) Comply with the minimum insurance requirements of KRS 198B.595; and
- 5 (3) Make application to the commissioner~~{executive director}~~ for a license and pay the
6 fees required.

7 ➔Section 278. KRS 198B.585 is amended to read as follows:

- 8 (1) Each certificate holder engaged in the activity described under KRS 198B.560 shall
9 secure a seal with the design prescribed by regulation of the
10 commissioner~~{executive director}~~.
- 11 (2) All working drawings, specifications, and plans prepared by, or under the
12 supervision of the certificate holder, must bear the imprint of this seal and shall bear
13 the imprint of the seal of the licensed fire protection contractor.
- 14 (3) No certificate holder shall assign or affix his or her seal to any drawings,
15 specifications or plans which have not been prepared under his or her immediate
16 supervision, and no licensed fire protection contractor shall affix his or her seal to
17 such drawings, specifications, or plans unless same were prepared by certificate
18 holder employee as provided for in KRS 198B.560 and 198B.580.

19 ➔Section 279. KRS 198B.590 is amended to read as follows:

20 The license and certificate shall be signed by the commissioner~~{executive director}~~.

21 ➔Section 280. KRS 198B.595 is amended to read as follows:

- 22 (1) The commissioner~~{executive director}~~ shall not issue a license under KRS
23 198B.560 and 198B.580, unless the fire protection sprinkler contractor applicant
24 files with the commissioner~~{executive director}~~ proof of liability insurance
25 coverage of not less than two hundred and fifty thousand dollars (\$250,000) one
26 person/maximum and five hundred thousand dollars (\$500,000) one
27 accident/maximum and workers' compensation insurance as provided for in KRS

1 Chapter 342.

2 (2) The workers' compensation insurance required by this section must be in the form
 3 of certificate of insurance executed by an insurer authorized to do business in this
 4 state. The liability insurance required by this section shall be liability insurance that
 5 covers the legal liability of the licensed person as the result of erroneous acts or
 6 failure to act in his or her capacity as a fire protection sprinkler contractor or system
 7 designer and shall be in the form of certificate of insurance executed by an insurer
 8 authorized to do business in this state or exported by a licensed surplus lines broker
 9 to an eligible carrier pursuant to KRS 304.10-020 to 304.10-210. Insurance
 10 certificates filed with the commissioner~~[executive director]~~ under this section shall
 11 remain in force until the insurer has terminated future liability by a thirty (30) day
 12 notice to the commissioner~~[executive director]~~.

13 (3) Failure to maintain the insurance required hereunder constitutes grounds for denial,
 14 suspension or revocation of a license under KRS 198B.620 by the
 15 commissioner~~[executive director]~~.

16 ➔ Section 281. KRS 198B.600 is amended to read as follows:

17 In no case shall a certificate holder be allowed to obtain a fire protection sprinkler
 18 contractor's license for more than one (1) fire protection sprinkler contractor at a time. If
 19 the certificate holder should leave the employment of the fire protection sprinkler
 20 contractor, he or she must notify the commissioner~~[executive director]~~ within thirty (30)
 21 days. The certificate holder shall not be eligible to obtain a fire protection sprinkler
 22 contractor's license for more than one (1) other fire protection sprinkler contractor for a
 23 period of twelve (12) months thereafter. If the certificate holder should leave the
 24 employment of the fire protection sprinkler contractor, or die, the contractor shall have
 25 six (6) months or until the expiration of the current license, whichever shall last occur, to
 26 submit a new application on another certificate holder and be issued a new license. If
 27 such application is not received and a new license issued within the allotted time, the

1 commissioner~~[executive director]~~ shall revoke the license of the fire protection sprinkler
2 contractor.

3 →Section 282. KRS 198B.605 is amended to read as follows:

4 (1) (a) All certificates issued under KRS 198B.570 shall expire on the last day of the
5 certificate holder's birth month in the following year. The department~~[office]~~
6 may reduce the license fee on a pro rata basis for initial certificates issued for
7 less than twelve (12) months. Renewed certificates shall expire on the last day
8 of the certificate holder's birth month of each year after the date of issuance of
9 the renewed certificate. Application for a renewal shall be upon such form as
10 is prescribed by the commissioner~~[executive director]~~ and the certificate
11 holder shall furnish the information required by such form.

12 (b) Failure of any certificate holder to secure his or her renewal certificate within
13 sixty (60) days after the last day of the certificate holder's birth month shall
14 constitute sufficient cause for the commissioner~~[executive director]~~ to revoke
15 his or her license.

16 (c) The commissioner~~[executive director]~~ may restore a certificate that has been
17 revoked for failure to pay the renewal fee, upon the receipt of payment of all
18 delinquent fees.

19 (2) A certificate holder may voluntarily surrender his or her certificate to the
20 commissioner~~[executive director]~~ and thereby be relieved of the annual renewal
21 fee. After surrendering of certificate, he or she shall not be known as a certificate
22 holder and shall desist from the practice thereof. Within five (5) years from the time
23 of surrender of the certificate, he or she may again qualify for a certificate without
24 examination by the payment of the required fee. If five (5) years thereafter have
25 lapsed, he or she shall return to the status of a new applicant.

26 (3) (a) The initial license for a fire protection sprinkler contractor shall expire on the
27 last day of the licensee's birth month in the following year. The

1 ~~department~~~~[office]~~ may reduce the license fee on a pro rata basis for initial
 2 licenses issued for less than twelve (12) months. Renewed licenses shall
 3 expire on the last day of the licensee's birth month of each year after the date
 4 of issuance of the renewed license. Application for a renewal shall be upon
 5 such form as is prescribed by the commissioner~~[executive director]~~ and
 6 license holder shall furnish the information required by such form.

7 (b) Failure of any certificate holder to secure his renewal certificate within sixty
 8 (60) days after the last day of the certificate holder's birth month shall
 9 constitute sufficient cause for the commissioner~~[executive director]~~ to revoke
 10 his or her license.

11 (c) The commissioner~~[executive director]~~ may restore a license that has been
 12 revoked for failure to pay the renewal fee, upon the receipt of payment of all
 13 delinquent fees.

14 ➔Section 283. KRS 198B.615 is amended to read as follows:

15 All license and certificate fees and charges collected by the commissioner~~[executive~~
 16 ~~director]~~ under the provisions of KRS 198B.550 to 198B.630 and the rules and
 17 regulations of the commissioner~~[executive director]~~ adopted hereunder, shall be paid to
 18 the State Treasury and credited to a trust and agency fund to be used by the
 19 commissioner's~~[executive director's]~~ office in carrying out the provisions of KRS
 20 198B.550 to 198B.630. Any money in the trust and agency fund at the end of the fiscal
 21 year shall lapse to the general fund of the Commonwealth.

22 ➔Section 284. KRS 198B.620 is amended to read as follows:

23 (1) Subject to a hearing conducted in accordance with KRS Chapter 13B, the
 24 commissioner~~[executive director]~~ may refuse to renew or may suspend or revoke
 25 the license of a licensed fire protection sprinkler contractor or the certificate of a
 26 certificate holder to engage in the business of fire protection sprinkler systems or in
 27 lieu thereof establish an administrative fine not to exceed two thousand dollars

1 (\$2,000) for any of the following reasons:

- 2 (a) Gross incompetency or gross negligence in the installation, repair, alteration,
- 3 maintenance, inspection, or addition to fire protection sprinkler systems, as
- 4 determined by the commissioner~~[executive director]~~;
- 5 (b) Conviction of a felony;
- 6 (c) Fraudulent or dishonest practices while engaging in the business of fire
- 7 protection sprinkler systems;
- 8 (d) Use of false evidence or misrepresentation in an application for a license or
- 9 certificate;
- 10 (e) Signing or affixing his or her seal to any plans, prints, specifications or
- 11 reports, which have not been prepared by him or her personally or under his or
- 12 her immediate supervision, or in violation of KRS 198B.585;
- 13 (f) Knowingly violating any provisions of KRS 198B.550 to 198B.630 or the
- 14 regulations issued thereunder.

15 (2) The commissioner~~[executive director]~~ shall revoke, subject to a hearing in
 16 accordance with KRS Chapter 13B, the license of a licensed fire protection
 17 sprinkler contractor or a certificate holder who engages in the fire protection
 18 sprinkler system business while his or her or its license is suspended.

19 (3) Any person who engages in the drawings, installation, repair, alteration, extension,
 20 maintenance, or inspection of fire protection sprinkler systems or uses any title,
 21 sign, card, or device indicating or intending to indicate that he or she is a certified
 22 fire sprinkler contractor without having first obtained the requisite license or
 23 certificate shall be guilty of a Class A misdemeanor. Each violation shall be
 24 regarded as a separate offense.

25 (4) Any license or certificate holder who is aggrieved by a final order of the
 26 commissioner~~[executive director]~~ suspending or revoking a license may appeal to
 27 the Franklin Circuit Court or the Circuit Court of the county of the license or

1 certificate holder's place of business in accordance with KRS Chapter 13B.

2 ➔Section 285. KRS 198B.625 is amended to read as follows:

3 (1) Whenever, in the judgment of the commissioner~~[executive director]~~, any person has
4 engaged, or is about to engage, in any acts or practices that constitute, or will
5 constitute a violation of the provisions of KRS 198B.560 and 198B.565, the
6 commissioner~~[executive director]~~ may inform the Attorney General, who may
7 make application to the Circuit Court of the county where the violation occurred for
8 an order enjoining such acts or practices.

9 (2) If a person is practicing without the requisite license or certificate required under
10 KRS 198B.560 and 198B.565, the commissioner~~[executive director]~~ shall inform
11 the Attorney General of the unlawful practice within seven (7) days of receiving
12 notice of its occurrence. The Attorney General may apply to the Circuit Court of the
13 county where the violation occurred for an order enjoining the acts or practices.

14 (3) Additionally, the commissioner~~[executive director]~~ may issue a cease and desist
15 order, the violation of which shall be cause for the imposition of an administrative
16 fine, suspension, or revocation as provided for in KRS 198B.620. Upon showing
17 via the commissioner~~[executive director]~~ that such person has engaged, or is about
18 to engage, in any such acts or practices, an injunction or restraining order, or such
19 other order as may be appropriate, shall be granted by the Circuit Court. Any order
20 of the Circuit Court of the county where the violation occurred shall be enforceable
21 and shall be valid anywhere in this Commonwealth and the order of that court shall
22 be reviewable as provided for in the Rules of Civil Procedure, in the case of other
23 injunctions and restraining orders.

24 ➔Section 286. KRS 198B.650, in the version effective until July 1, 2010, is
25 amended to read as follows:

26 As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

27 (1) "Air conditioning or cooling system" means a system in which heat is removed from

1 air, surrounding surfaces, or both;

2 (2) "Apprentice heating, ventilation, and air conditioning mechanic" means an
3 individual in the process of learning the heating, ventilation, and air conditioning
4 trade who assists and is under the supervision of a master heating, ventilation, and
5 air conditioning contractor and a journeyman heating, ventilation, and air
6 conditioning mechanic;

7 (3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning
8 Contractors;

9 (4) "Burner service" means the servicing of oil or gas burners used for heating air or
10 water for purposes other than the transmission of heat;

11 (5) "Certificate" means a document issued by the board to an apprentice heating,
12 ventilation, and air conditioning mechanic to assist a master heating, ventilation,
13 and air conditioning contractor or a journeyman heating, ventilation, or air
14 conditioning mechanic;

15 (6) "~~Commissioner~~~~[Executive director]~~" means the commissioner~~[executive director]~~
16 of the Department~~[Office]~~ of Housing, Buildings and Construction;

17 (7) "Department~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and
18 Construction;

19 (8) "Heating system" means a system in which heat is transmitted by radiation,
20 conduction, convection, or a combination of any of these methods to air,
21 surrounding surfaces, or both. "Heating system" does not include fireplaces and
22 free-standing stoves not incorporated into a primary heating system, electric thermal
23 storage units, electric ceiling cable heating systems, or electric baseboard heating
24 units;

25 (9) "Hydronic system" means a heating and cooling system using liquids to transmit or
26 remove heat;

27 (10) "Journeyman heating, ventilation, and air conditioning mechanic" means an

1 individual who is licensed by the board to perform heating, ventilation, and air
 2 conditioning work under the supervision, direction, and responsibility of a master
 3 heating, ventilation, and air conditioning contractor;

4 (11) "Maintenance person or maintenance engineer" means a person who is a regular and
 5 bona fide full-time employee or agent of a property owner, property lessor, property
 6 management company, or firm, not in the heating, ventilating, and air conditioning
 7 business that has jurisdiction of property where the routine maintenance of heating,
 8 ventilating, and air conditioning is being performed, provided the maintenance shall
 9 not include replacement of heating, ventilation, or air conditioning systems;

10 (12) "Master heating, ventilation, and air conditioning contractor" means a heating,
 11 ventilation, and air conditioning contractor who is licensed by the board to advertise
 12 and practice heating, ventilation, and air conditioning contracting in this
 13 Commonwealth;

14 (13) "Practice of heating, ventilation, and air conditioning contracting" means the
 15 installation, maintenance, altering, remodeling, or repair of heating systems,
 16 ventilation systems, hydronic systems, burner service, or cooling systems;

17 (14) "Routine maintenance of heating, ventilation, or air conditioning" means the routine
 18 and periodic servicing of heating, ventilation, and air conditioning systems,
 19 including cleaning, inspection, and adjustments to insure the proper operation, and
 20 the removal and replacement of component parts. "Routine maintenance of heating,
 21 ventilation, or air conditioning" shall not include the installation of complete new
 22 heating, ventilation, or air conditioning systems; and

23 (15) "Ventilation system" means a natural or mechanical system of supplying air to or
 24 removing air from any space.

25 ➔Section 287. KRS 198B.650, in the version effective July 1, 2010, is amended
 26 to read as follows:

27 As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

- 1 (1) "Air conditioning or cooling system" means a system in which heat is removed from
2 air, surrounding surfaces, or both;
- 3 (2) "Apprentice heating, ventilation, and air conditioning mechanic" means an
4 individual in the process of learning the heating, ventilation, and air conditioning
5 trade who assists and is under the supervision of a master heating, ventilation, and
6 air conditioning contractor and a journeyman heating, ventilation, and air
7 conditioning mechanic;
- 8 (3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning
9 Contractors;
- 10 (4) "Burner service" means the servicing of oil or gas burners used for heating air or
11 water for purposes other than the transmission of heat;
- 12 (5) "Certificate" means a document issued by the board to an apprentice heating,
13 ventilation, and air conditioning mechanic to assist a master heating, ventilation,
14 and air conditioning contractor or a journeyman heating, ventilation, or air
15 conditioning mechanic;
- 16 (6) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~
17 of the Department~~[Office]~~ of Housing, Buildings and Construction;
- 18 (7) "Department~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and
19 Construction;
- 20 (8) "Heating system" means a system in which heat is transmitted by radiation,
21 conduction, convection, or a combination of any of these methods to air,
22 surrounding surfaces, or both. "Heating system" does not include fireplaces and
23 free-standing stoves not incorporated into a primary heating system, electric thermal
24 storage units, electric ceiling cable heating systems, or electric baseboard heating
25 units;
- 26 (9) "Hydronic system" means a heating and cooling system using liquids to transmit or
27 remove heat;

- 1 (10) "Initial heating, ventilation, or air conditioning system" means the first or original
 2 heating, ventilation, or air conditioning system installed in a building;
- 3 (11) "Journeyman heating, ventilation, and air conditioning mechanic" means an
 4 individual who is licensed by the board to perform heating, ventilation, and air
 5 conditioning work under the supervision, direction, and responsibility of a master
 6 heating, ventilation, and air conditioning contractor;
- 7 (12) "Maintenance person or maintenance engineer" means a person who is a regular and
 8 bona fide full-time employee or agent of a property owner, property lessor, property
 9 management company, or firm, not in the heating, ventilating, and air conditioning
 10 business that has jurisdiction of property where the routine maintenance of heating,
 11 ventilating, and air conditioning is being performed, provided the maintenance shall
 12 not include replacement of heating, ventilation, or air conditioning systems;
- 13 (13) "Major repair" means the complete replacement of any of the following heating,
 14 ventilation, or air conditioning equipment:
- 15 (a) Furnaces;
 - 16 (b) Condensing units;
 - 17 (c) Heat pumps;
 - 18 (d) Fan coil units;
 - 19 (e) Chiller systems; or
 - 20 (f) Heating boiler systems not covered by KRS Chapter 236;
- 21 (14) "Master heating, ventilation, and air conditioning contractor" means a heating,
 22 ventilation, and air conditioning contractor who is licensed by the board to advertise
 23 and practice heating, ventilation, and air conditioning contracting in this
 24 Commonwealth;
- 25 (15) "Permit" means a document issued by the department~~{office}~~ or its authorized agent
 26 allowing the installation of an original heating, ventilation, or air conditioning
 27 system;

1 (16) "Practice of heating, ventilation, and air conditioning contracting" means the
 2 installation, maintenance, altering, remodeling, or repair of heating systems,
 3 ventilation systems, hydronic systems, burner service, or cooling systems;

4 (17) "Routine maintenance of heating, ventilation, or air conditioning" means the routine
 5 and periodic servicing of heating, ventilation, and air conditioning systems,
 6 including cleaning, inspection, and adjustments to ensure the proper operation, and
 7 the removal and replacement of component parts. "Routine maintenance of heating,
 8 ventilation, or air conditioning" shall not include the installation of complete new
 9 heating, ventilation, or air conditioning systems; and

10 (18) "Ventilation system" means a natural or mechanical system of supplying air to or
 11 removing air from any space.

12 ➔Section 288. KRS 198B.652 is amended to read as follows:

13 (1) The Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors is
 14 hereby created, which shall be attached to the Department~~{Office}~~ of Housing,
 15 Buildings and Construction for administrative purposes. The board shall consist of
 16 eight (8) members, one (1) of whom shall be a member of the Home Builders
 17 Association of Kentucky; one (1) of whom shall be a member of the Kentucky
 18 Society of Professional Engineers; one (1) of whom shall be a member of the
 19 Kentucky Association of Plumbing-Heating-Cooling Contractors; one (1) of whom
 20 shall be a member of the Mechanical Contractors Association of Kentucky; one (1)
 21 of whom shall be a heating, ventilation, or air conditioning contractor; one (1) of
 22 whom shall represent the public and shall not be associated with or financially
 23 interested in heating, ventilation, and air conditioning contracting; one (1) of whom
 24 shall be the commissioner~~{executive director}~~ of the Department~~{Office}~~ of
 25 Housing, Buildings and Construction or his or her designee; and one (1) of whom
 26 shall be a local government official or employee, who shall have a background in
 27 the heating, ventilation, or air conditioning industry. Each member of the board

1 shall be a citizen and resident of the Commonwealth of Kentucky.

2 (2) All members of the board, except those who represent the public, local government,
3 the Department~~[Office]~~ of Housing, Buildings and Construction, and the Kentucky
4 Society of Professional Engineers, shall~~[-~~:

5 ~~(a) For initial appointments to these positions, have been actively engaged in the~~
6 ~~heating, ventilation, and air conditioning contracting business for not less than~~
7 ~~five (5) years immediately preceding the date of the appointment to the board;~~

8 ~~(b) For subsequent appointments to these positions for terms beginning prior to~~
9 ~~July 1, 2000, have been actively engaged in the heating, ventilation, and air~~
10 ~~conditioning contracting business for not less than five (5) years immediately~~
11 ~~preceding the date of the appointment to the board and hold a valid license or~~
12 ~~certificate as a master heating, ventilation, and air conditioning contractor; and~~

13 ~~(c) For subsequent appointments to these positions for terms beginning on or after~~
14 ~~July 1, 2000,]~~ have been actively engaged in the heating, ventilation, and air
15 conditioning contracting business as a master heating, ventilation, and air
16 conditioning contractor for not less than five (5) years immediately preceding
17 the date of the appointment to the board and shall hold a valid license or
18 certificate for that status.

19 (3) Except for the commissioner~~[executive director]~~, who shall serve for so long as he
20 or she holds his or her appointment as commissioner~~[executive director]~~, the terms
21 of the board members shall be as follows. The remaining seven (7) board members
22 shall be appointed by the Governor with initial appointments for three (3) members
23 for terms of three (3) years, two (2) members for terms of two (2) years, and two (2)
24 members for terms of one (1) year. All appointments shall expire on June 30 of the
25 last year of the terms. Thereafter, these members shall be appointed by the Governor
26 for terms of three (3) years. No person shall serve more than two (2) full
27 consecutive terms. Members shall serve until their successors are appointed.

1 (4) The commissioner~~[executive director]~~ of the Department~~[Office]~~ of Housing,
 2 Buildings and Construction, or his or her designee, shall serve as chairman of the
 3 board. A majority of the board shall constitute a quorum to conduct business. The
 4 board shall meet at least once each calendar quarter in a location designated by the
 5 chairman or commissioner~~[executive director]~~. The board may meet upon special
 6 call by the chairman, the commissioner~~[executive director]~~, or a majority of the
 7 board.

8 (5) Each member of the board, except the commissioner~~[executive director]~~, shall
 9 receive twenty-five dollars (\$25) per day for attending each meeting and shall be
 10 reimbursed for all necessary expenses incurred in the performance of his or her
 11 official duties.

12 (6) Vacancies in the membership of the board for any cause shall be filled by
 13 appointment by the Governor for the balance of the unexpired term.

14 ➔Section 289. KRS 198B.658 is amended to read as follows:

15 (1) The board shall issue a master heating, ventilation, and air conditioning contractor's
 16 license to any person who:

17 (a) Is at least eighteen (18) years of age;

18 (b) Has been regularly and principally employed or engaged in the heating,
 19 ventilation, and air conditioning trades as a journeyman heating, ventilation,
 20 and air conditioning mechanic for not less than two (2) years, under the
 21 direction and supervision of a master heating, ventilation, and air conditioning
 22 contractor; and

23 (c) Has passed an examination prescribed by the board to determine competency
 24 to practice heating, ventilation, and air conditioning contracting.

25 (2) The board shall issue a journeyman heating, ventilation, and air conditioning
 26 mechanic's license to any person who:

27 (a) Is at least eighteen (18) years of age;

- 1 (b) Has been regularly and principally employed or engaged in the heating,
 2 ventilation, and air conditioning trades for not less than two (2) years, under
 3 the direction and supervision of a master heating, ventilation, and air
 4 conditioning contractor, or who prior to July 1, 1995, under the direction and
 5 supervision of a person who qualifies under KRS 198B.662; and
- 6 (c) Has passed an examination prescribed by the board to determine competency
 7 to install, maintain, and repair heating and cooling systems, heating and
 8 cooling service, burner service, and hydronic systems.
- 9 (3) The board shall issue an apprentice heating, ventilation, and air conditioning
 10 mechanic's certificate to any person who is registered with the board.
- 11 (a) The board shall establish by administrative regulation the minimum number of
 12 hours of experience required by apprentices and shall maintain an apprentice
 13 register to credit an apprentice for hours worked under the supervision of a
 14 master heating, ventilation, and air conditioning contractor and journeyman
 15 heating, ventilation, and air conditioning mechanic. Experience gained under
 16 the supervision of a Kentucky licensed master heating, ventilation, and air
 17 conditioning contractor while registered as an apprentice with the Kentucky
 18 ~~[Department of]~~Labor Cabinet, Department~~[Office]~~ of Workplace Standards,
 19 in cooperation with the United States Department of Labor, Bureau of
 20 Apprenticeship and Training shall be accepted toward the two (2) year
 21 experience requirement for a journeyman heating, ventilation, and air
 22 conditioning mechanic license.
- 23 (b) The apprentice register shall include the name, address, Social Security
 24 number, employer, and dates of employment of the apprentice.
- 25 (c) The apprentice shall notify the board in writing of any change in address or
 26 employer.
- 27 (d) Apprentices and pre-apprentices shall not be required to pay fees for a

1 certificate of registration or a registration renewal fee.

2 (4) The satisfactory completion of one (1) academic year of a board-approved
3 curriculum or one (1) year of professional training in heating, ventilation, and air
4 conditioning work may be considered as equivalent to one (1) year of employment
5 required by subsection (2)(b) of this section, not to exceed one (1) year.

6 (5) The satisfactory completion of one (1) academic year of teaching experience in a
7 board-approved or state-approved technical education program in heating,
8 ventilation, and air conditioning shall be considered as equivalent to one (1) year of
9 employment, as required by subsection (1)(b) or (2)(b) of this section. No more than
10 one (1) year of approved teaching experience may be used in meeting the
11 requirements of subsection (1)(b) or (2)(b) of this section.

12 ➔Section 290. KRS 198B.6673 is amended to read as follows:

13 (1) The board shall promulgate administrative regulations to establish a reasonable
14 schedule of fees to implement the program. The fees shall not exceed the actual
15 costs for the administration of the program. The board shall also establish heating,
16 ventilation, and air conditioning inspection protocols that ensure timely inspections
17 and minimal interruption to the construction process.

18 (2) The department~~office~~, with the approval of the board, upon the request of any
19 individual local governing entity or combination of entities with existing heating,
20 ventilation, and air conditioning permitting and inspection programs as of January
21 1, 2007, shall authorize them to administer, carry out, and enforce the rules and
22 regulations of the department~~office~~ relating to heating, ventilation, and air
23 conditioning installations, issue permits, and make inspections within their
24 respective boundaries, or perform any portion of these functions. Nothing in KRS
25 198B.6671 to 198B.6678 shall prohibit these entities from continuing to include
26 major repairs or substantial alterations to a heating, ventilation, or air conditioning
27 system within their permitting and inspection program in the absence of a state

1 requirement, if major repairs or substantial alterations were included in the entities'
2 inspection program prior to January 1, 2007. The department~~[office]~~, with the
3 approval of the board, may authorize any other individual local government entities
4 or combination of entities to administer, carry out, and enforce the rules and
5 regulations of the department~~[office]~~ relating to heating, ventilation, and air
6 conditioning installations, issue permits, and make inspections within their
7 respective boundaries, or perform any portion of those functions. When
8 authorization is granted, the department~~[office]~~ shall enter into contractual
9 arrangements with the local governing entities, which shall remain in effect as long
10 as the local entity continues to operate its program pursuant to guidelines adopted
11 by the board. A heating, ventilation, and air conditioning permit issued by an
12 authorized local governing entity shall be considered a permit issued by the
13 department~~[office]~~, and all fees collected by the authorized local government
14 related to the same shall be retained by that local government.

15 (3) Any local governing entity enforcing the permitting and inspection requirements of
16 KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint
17 and fix the compensation of the local governing entity's heating, ventilation, and air
18 conditioning inspectors. No person shall perform the duties of a heating, ventilation,
19 and air conditioning inspector unless he or she has at least six (6) years' experience
20 as a licensed heating, ventilation, and air conditioning journeyman mechanic or a
21 licensed master heating, ventilation, and air conditioning contractor, unless he or
22 she is a certified building inspector who has successfully passed the examinations
23 relating to heating, ventilation, and air conditioning systems. At the time of
24 employment, the heating, ventilation, and air conditioning inspector shall be
25 licensed or certified in accordance with the provisions of KRS 198B.650 to
26 198B.689.

27 (4) No local governing entity may impose any other additional heating, ventilation, and

1 air conditioning inspection or permit requirements, or establish any local inspection
 2 or permitting program, unless those provisions were in place before January 1,
 3 2007.

4 ➔Section 291. KRS 198B.6674 is amended to read as follows:

5 All fees and fines collected and paid into the State Treasury shall be credited to a
 6 revolving trust and agency account and shall be used only for the administration and
 7 enforcement of KRS 198B.650 to 198B.689 and the repayment of moneys borrowed from
 8 surplus trust and agency accounts of the department~~office~~. The moneys in the account
 9 are hereby appropriated by the General Assembly for the purposes set forth in KRS
 10 198B.650 to 198B.689, and shall not lapse at the close of the fiscal year.

11 ➔Section 292. KRS 198B.6675 is amended to read as follows:

12 (1) For the purpose of enforcing the provisions of KRS 198B.650 to 198B.689, officers,
 13 agents, and inspectors of the department~~office~~ or an authorized local government
 14 shall have the power and authority to enter upon permitted premises at all
 15 reasonable times with the consent of the property owner in order to make
 16 inspections, interview all persons, and request proof of heating, ventilation, and air
 17 conditioning licenses, installation permits, and other evidence of compliance.
 18 Officers, agents, and inspectors of the department~~office~~ or an authorized local
 19 government shall have the authority to issue a stop-work order to any owner, agent,
 20 or occupant of real property whenever the heating, ventilation, and air conditioning
 21 system under inspection is found to be in violation of KRS 198B.650 to 198B.689
 22 or the Uniform State Building Code's heating, ventilation, and air conditioning
 23 mechanical sections.

24 (2) Notwithstanding the existence or pursuit of any other civil or criminal penalties, the
 25 department~~office~~ and its officers, agents, and inspectors are authorized to institute
 26 and maintain actions to restrain and enjoin any violation of KRS 198B.650 to
 27 198B.689, the Uniform State Building Code, the Uniform State Residential Code,

1 or the rules or the administrative regulations of the department~~[office]~~ relating
2 thereto.

- 3 (3) City and county attorneys, Commonwealth's attorneys, and the Attorney General
4 may, within their respective jurisdictions, represent the department~~[office]~~ and its
5 officers, agents, and inspectors in the enforcement of provisions of KRS 198B.650
6 to 198B.689, the Uniform State Residential Code, and the Uniform State Building
7 Code.

8 ➔Section 293. KRS 198B.6676 is amended to read as follows:

- 9 (1) The Circuit Court where a violation occurs shall have jurisdiction and venue in all
10 civil and injunctive actions instituted by the department~~[office]~~ for the enforcement
11 of the provisions of KRS 198B.650 to 198B.689 and orders issued thereunder.

- 12 (2) The District Court where a violation occurs shall have jurisdiction and venue in all
13 criminal actions for the enforcement of the provisions of KRS 198B.650 to
14 198B.689, the Uniform State Building Code, the Uniform State Residential Code,
15 and orders issued thereunder.

16 ➔Section 294. KRS 198B.6677 is amended to read as follows:

- 17 (1) If an installation for which a permit is required does not meet the requirements of
18 the Uniform State Building Code or the Uniform State Residential Code, whichever
19 is applicable, or if the property owner refuses to allow an inspection, the inspector
20 shall refuse to approve the work covered by the permit. The department~~[office]~~ or
21 authorized local government may prohibit the continued use of a heating,
22 ventilation, and air conditioning system that an authorized inspector determines was
23 improperly installed or altered if continued use threatens human life or if the
24 property owner refused to allow an inspection.

- 25 (2) An applicant aggrieved by an action of an inspector or the department~~[office]~~ may
26 request a hearing in accordance with KRS Chapter 13B.

27 ➔Section 295. KRS 198B.6678 is amended to read as follows:

1 (1) The department~~[office]~~ shall appoint and assign heating, ventilation, and air
2 conditioning inspectors to each county subject to the provisions of KRS 198B.650
3 to 198B.689 and in numbers sufficient to implement the provisions of KRS
4 198B.650 to 198B.689.

5 (2) No person shall be appointed as a heating, ventilation, and air conditioning
6 inspector unless he or she has at least six (6) years' experience as a licensed heating
7 ventilation, and air conditioning journeyman mechanic or a licensed master heating,
8 ventilation, and air conditioning contractor, unless he or she is a certified building
9 inspector who has successfully passed the examinations relating to heating,
10 ventilation, and air conditioning systems. At the time of his or her appointment, the
11 inspector shall be licensed or certified in accordance with the provisions of KRS
12 198B.650 to 198B.689.

13 ➔Section 296. KRS 198B.668 is amended to read as follows:

14 (1) No person, firm, or corporation shall practice heating, ventilation, and air
15 conditioning contracting unless that person, firm, or corporation maintains general
16 liability insurance in an amount not less than five hundred thousand dollars
17 (\$500,000) and property damage insurance in an amount not less than three hundred
18 thousand dollars (\$300,000) underwritten by an insurance carrier licensed and
19 approved by the Kentucky Department~~[Office]~~ of Insurance.

20 (2) Proof of insurance shall be submitted to the board prior to issuance or renewal of a
21 license.

22 (3) Proof of insurance, as required by subsection (1) of this section, shall exempt
23 licensees from the requirement of obtaining separate insurance in local jurisdictions
24 under any local licensing laws.

25 (4) No license shall be valid without insurance as provided in this section. Insurance
26 carriers shall notify the board upon cancellation of the insurance of any licensee
27 required to maintain insurance.

➔Section 297. KRS 198B.700 is amended to read as follows:

As used in KRS 198B.700 to 198B.738, unless otherwise provided:

- (1) "Applicant" means an individual who applies for a license as a home inspector;
- (2) "Board" means the Kentucky Board of Home Inspectors established in KRS 198B.704;
- (3) "Client" means a person who contracts with a licensed home inspector to obtain a home inspection and subsequent written home inspection report;
- (4) "~~Department~~~~Office~~" means the Kentucky ~~Department~~~~Office~~ of Housing, Buildings and Construction;
- (5) "Home inspection" means a visual analysis for the purpose of providing a professional opinion by a licensed home inspector, of the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes;
- (6) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:
 - (a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;
 - (b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;
 - (c) A list of any systems or components that were designated for inspection in the

1 standards of practice adopted by the board but that were not inspected; and

2 (d) The reason a system or component listed under paragraph (c) of this
3 subsection was not inspected;

4 (7) "Home inspector" means an individual who performs home inspections for
5 compensation;

6 (8) "Licensee" means a person who performs home inspections and who is licensed
7 under KRS 198B.700 to 198B.738 as a home inspector; and

8 (9) "Residential dwelling" means a structure consisting of at least one (1) but not more
9 than four (4) units, each designed for occupancy by a single family, whether the
10 units are occupied or unoccupied.

11 ➔Section 298. KRS 198B.702 is amended to read as follows:

12 KRS 198B.700 to 198B.738 shall apply to an individual who conducts home inspections
13 for compensation, but shall not apply to the following:

14 (1) An individual who is acting within the scope of the individual's employment as:

15 (a) A code enforcement official for the state or a political subdivision of the state;
16 or

17 (b) A representative of a state or local housing agency or an individual acting
18 under the authority of the United States Department of Housing and Urban
19 Development;

20 (2) An individual who is acting within the scope of the individual's license as a
21 licensed:

22 (a) Architect under KRS Chapter 323;

23 (b) Professional engineer under KRS Chapter 322;

24 (c) Plumbing contractor or journeyman plumber under KRS Chapter 318;

25 (d) Electrician, master electrician, or electrical contractor under KRS Chapter
26 227A;

27 (e) Liquefied petroleum gas dealers under KRS Chapter 234; or

- 1 (f) Master heating, ventilation, and air conditioning contractor, journeyman
2 heating, ventilation, and air conditioning mechanic, or an apprentice heating,
3 ventilation, and air conditioning mechanic under this chapter;
- 4 (3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-
5 salesperson, or salesperson and is acting within the scope of the individual's license;
- 6 (4) An individual who is licensed under KRS Chapter 324A as a real estate appraiser
7 and is acting within the scope of the individual's license;
- 8 (5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster
9 and is acting within the scope of the individual's license;
- 10 (6) An individual who holds a permit, certificate, or license to:
11 (a) Use and apply pesticides; or
12 (b) Make diagnostic inspections and reports for wood destroying pests and fungi
13 under KRS Chapter 217B and is acting within the scope of the individual's
14 certificate or license;
- 15 (7) An individual who holds a license from a political subdivision as a tradesperson or
16 home builder and is acting within the scope of the individual's license;
- 17 (8) An individual who holds a current and valid license, certificate, or permit under
18 KRS 227.550 to 227.660 and is acting within the scope of the individual's license,
19 certificate, or permit as a:
20 (a) Manufactured home retailer;
21 (b) Manufactured home certified retailer; or
22 (c) Manufactured home certified installer; or
- 23 (9) Employees of the Department~~Office~~ of Housing, Buildings and Construction or
24 the State Fire Marshall's Office acting in their official capacities as inspectors of
25 buildings and manufactured housing.
- 26 ➔Section 299. KRS 198B.704 is amended to read as follows:
- 27 (1) There is created a board to be known as the Kentucky Board of Home Inspectors.

1 (2) The board shall be composed of ten (10) members appointed by the Governor.

2 (a) Five (5) of the members shall:

3 1. Have been actively engaged in performing home inspections in
4 Kentucky for at least five (5) years immediately before the member's
5 appointment to the board, or have completed one hundred (100) fee paid
6 inspections per year over the last five (5) years;

7 2. Be licensed by the board as a home inspector; and

8 3. Be selected from a list of fifteen (15) names submitted to the Governor,
9 and compiled by a selection committee composed of eight (8) members,
10 two (2) each from the American Society of Home Inspectors, the
11 Kentucky Real Estate Inspectors Association, the National Association
12 of Certified Home Inspectors, and the National Association of Home
13 Inspectors, respectively.

14 (b) The other five (5) board members shall be qualified as follows:

15 1. One (1) person shall be a home builder who has been actively engaged
16 in home building in Kentucky for at least five (5) years immediately
17 before the member's appointment to the board. This member shall be
18 selected from a list of three (3) names submitted to the Governor from
19 the Home Builders Association of Kentucky;

20 2. One (1) person shall be a licensed real estate salesperson or broker under
21 KRS Chapter 324 who has been actively engaged in selling, trading,
22 exchanging, optioning, leasing, renting, managing, or listing residential
23 real estate in Kentucky for at least five (5) years immediately before the
24 member's appointment to the board. This member shall be selected from
25 a list of three (3) names submitted to the Governor from the Kentucky
26 Association of Realtors;

27 3. One (1) person shall represent the public at large and shall not be

1 associated with the home inspection, home building, or real estate
 2 business other than as a consumer. This member shall be appointed by
 3 the Governor, but shall not be selected from a submitted list of names;

4 4. One (1) person shall be a licensed manufactured home retailer, certified
 5 retailer, or certified installer who has been actively engaged in such an
 6 occupation for at least five (5) years immediately before the member's
 7 appointment to the board. This member shall be selected from a list of
 8 three (3) names submitted to the Governor from the Kentucky
 9 Manufactured Housing Institute; and

10 5. The commissioner~~[Executive Director]~~ of the Department~~[Office]~~ of
 11 Housing, Buildings~~[,]~~ and Construction, or his or her designee shall be a
 12 member of the board.

13 (3) A board member required to have a license in accordance with subsection (2)(a)3.
 14 of this section, shall obtain the requisite license in accordance with KRS 198B.712,
 15 on or before July 1, 2006. If a board member does not obtain the requisite license on
 16 or before July 1, 2006, the board member shall be considered to have resigned from
 17 the board on July 1, 2006, and the Governor shall fill the vacancy in accordance
 18 with this section. If a board member resigns for failure to obtain a home inspectors
 19 license, the actions of the board member and board before July 1, 2006, shall be
 20 valid and viable.

21 (4) The members of the board shall be residents of Kentucky.

22 (5) The initial terms of office for the nine (9) members appointed to the board by the
 23 Governor are as follows:

- 24 (a) Three (3) members for a term of three (3) years;
- 25 (b) Three (3) members for a term of two (2) years; and
- 26 (c) Three (3) members for a term of one (1) year.

27 Thereafter, all members shall serve a term of three (3) years, or until a successor has

1 been duly appointed.

2 (6) The initial terms begin July 15, 2004.

3 (7) The Governor may remove a board member at any time for incompetence, neglect
4 of duty, or unprofessional conduct.

5 (8) If a vacancy occurs in the membership of the board, the Governor shall appoint an
6 individual to serve for the remainder of the unexpired term who has like
7 qualifications required of the member who created the vacancy.

8 (9) A member shall not serve on the board for more than six (6) consecutive years.

9 (10) Each year the board shall elect a member as chairperson and a member as vice
10 chairperson.

11 (11) The chairperson and vice chairperson shall serve in their respective capacities for no
12 more than one (1) year consecutively and until a successor is elected.

13 (12) The chairperson shall preside at all meetings at which the chairperson is present.
14 The vice chairperson shall preside at meetings in the absence of the chairperson and
15 shall perform other duties as the chairperson directs.

16 (13) If the chairperson and vice chairperson are absent from a meeting of the board when
17 a quorum exists, the members who are present may elect a presiding officer who
18 shall serve as acting chairperson until the conclusion of the meeting or until the
19 arrival of the chairperson or vice chairperson.

20 (14) The board shall meet at least quarterly each calendar year upon the call of the
21 chairperson or the written request of a majority of the members of the board.

22 (15) The chairperson shall establish the date, time, and place for each meeting.

23 (16) A majority of the current members of the board constitutes a quorum.

24 (17) The affirmative vote of a majority of the members in attendance at a duly
25 constituted meeting of the board is necessary for the board to take official action.

26 (18) Each member of the board is entitled to a minimum salary of thirty-five dollars
27 (\$35) per diem. Each member of the board is entitled to reimbursement for traveling

1 expenses and other expenses actually incurred in connection with the member's
 2 duties as established under KRS 45.101.

- 3 (19) A member shall be automatically removed from the board and a vacancy shall be
 4 created if a member fails to adhere to a duly adopted code of ethics of the board.
 5 Failure to adhere to such a code shall be determined by official action of the board.

6 ➔Section 300. KRS 198B.708 is amended to read as follows:

7 The department~~[office]~~ shall provide the board with:

- 8 (1) Clerical or other assistants, including investigators, necessary for the proper
 9 performance of the board's duties;
 10 (2) A place to hold board meetings and hearings; and
 11 (3) Office equipment and office space for board records, staff, and other effects
 12 necessary to carry out the requirements of KRS 198B.700 to 198B.738.

13 ➔Section 301. KRS 198B.732 is amended to read as follows:

- 14 (1) An individual is guilty of a Class B misdemeanor if the individual:
 15 (a) Performs or offers to perform home inspections for compensation without
 16 being licensed as a home inspector and without being exempt from licensing;
 17 (b) Presents as the individual's own the license of another;
 18 (c) Intentionally gives false or materially misleading information to the board or
 19 to a board member in connection with a licensing matter;
 20 (d) Impersonates another licensee; or
 21 (e) Uses an expired, suspended, revoked, or otherwise restricted license.
 22 (2) An individual is guilty of a Class A misdemeanor if the individual is convicted of a
 23 second or subsequent offense under this section within five (5) years after a prior
 24 conviction of an offense under this section.
 25 (3) When entering a judgment for an offense under this section, the court shall impose a
 26 service fee of an amount equal to any fee or other compensation earned by the
 27 individual in the commission of the offense.

1 (4) Each transaction involving unauthorized activities as described in this section shall
2 constitute a separate offense.

3 (5) In all actions for the collection of a fee or other compensation for performing home
4 inspections, the party seeking relief shall allege and prove that, at the time that the
5 cause of action arose, the party seeking relief was not in violation of KRS
6 198B.712.

7 (6) The Housing, Buildings and Construction Legal Division within the Office of
8 Legal Services in the Public Protection Cabinet ~~general counsel for the Office of~~
9 ~~Housing, Buildings and Construction~~ shall act as the legal adviser for the board and
10 provide any legal assistance necessary to carry out this section.

11 ➔Section 302. KRS 200.658 is amended to read as follows:

12 (1) There is hereby created the Kentucky Early Intervention System Interagency
13 Coordinating Council to be comprised of twenty-five (25) members to be appointed
14 by the Governor to serve a term of three (3) years. The members of the council shall
15 be geographically and culturally representative of the population of the
16 Commonwealth and conform to the requirements of federal law and regulations. For
17 administrative purposes, the council shall be attached to the Early Childhood
18 Development Authority. Pursuant to federal law and regulations, the membership
19 shall be as follows:

20 (a) At least five (5) members shall be the parents, including minority parents, of a
21 child with a disability who is twelve (12) years of age or less, with at least one
22 (1) being the parent of a child six (6) years of age or less. Each parent shall
23 have knowledge of or experience with programs for infants and toddlers with
24 disabilities;

25 (b) At least five (5) members shall be public or private providers of early
26 intervention services to infants and toddlers with disabilities;

27 (c) At least one (1) member shall be a member of the Kentucky General

1 Assembly;

2 (d) At least one (1) member shall be representative of an entity responsible for
3 personnel preparation and may include personnel from an institution of higher
4 education or preservice training organization;

5 (e) At least one (1) member shall be the commissioner or individual serving in a
6 position of equivalent authority, or the designee, from the Department for
7 Public Health;

8 (f) At least one (1) member shall be the commissioner or individual serving in a
9 position of equivalent authority, or the designee, from the Department for
10 Medicaid Services;

11 (g) At least one (1) member shall be the commissioner or individual serving in a
12 position of equivalent authority, or the designee, from the Department for
13 Mental Health and Mental Retardation Services;

14 (h) At least one (1) member shall be the commissioner or individual serving in a
15 position of equivalent authority, or the designee, from the Department for
16 Community Based Services;

17 (i) At least one (1) member shall be the commissioner or designee of the
18 Department of Education;

19 (j) At least one (1) member shall be the commissioner~~executive director~~ or
20 designee of the Department~~Office~~ of Insurance;

21 (k) At least one (1) member shall be a representative of the Commission for
22 Children with Special Health Care Needs;

23 (l) At least one (1) member shall be a representative for the Head Start program;
24 and

25 (m) At least one (1) member shall be a representative of the Education of
26 Homeless Children and Youth program.

27 (2) In matters concerning the Kentucky Early Intervention System, the council shall

1 advise and assist the cabinet in areas, including but not limited to the following:

- 2 (a) Development and implementation of the statewide system and the
 - 3 administrative regulations promulgated pursuant to KRS 200.650 to 200.676;
 - 4 (b) Achieving the full participation, coordination, and cooperation of all
 - 5 appropriate entities in the state, including, but not limited to, individuals,
 - 6 departments, and agencies, through the promotion of interagency agreements;
 - 7 (c) Establishing a process to seek information from service providers, service
 - 8 coordinators, parents, and others concerning the identification of service
 - 9 delivery problems and the resolution of those problems;
 - 10 (d) Resolution of disputes, to the extent deemed appropriate by the cabinet;
 - 11 (e) Provision of appropriate services for children from birth to three (3) years of
 - 12 age;
 - 13 (f) Identifying sources of fiscal and other support services for early intervention
 - 14 programs;
 - 15 (g) Preparing applications to Part C of the Federal Individuals with Disabilities
 - 16 Education Act (IDEA) and any amendments to the applications;
 - 17 (h) Transitioning of infants and toddlers with disabilities and their families from
 - 18 the early intervention system to appropriate services provided under Part B of
 - 19 the Federal Individuals with Disabilities Education Act (IDEA) operated by
 - 20 the state Department of Education; and
 - 21 (i) Developing performance measures to assess the outcomes for children
 - 22 receiving services.
- 23 (3) The council shall prepare no later than December 30 of each year an annual report
- 24 on the progress toward and any barriers to full implementation of the Kentucky
- 25 Early Intervention System for infants and toddlers with disabilities and their
- 26 families. The report shall include recommendations concerning the Kentucky Early
- 27 Intervention System, including recommendations of ways to improve quality and

1 cost effectiveness, and shall be submitted to the Governor, Legislative Research
2 Commission, and the Secretary of the United States Department of Education.

- 3 (4) No member of the council shall cast a vote on any matter which would provide
4 direct financial benefit to that member or otherwise give the appearance of the
5 existence of a conflict of interest.

6 ➔Section 303. KRS 205.619 is amended to read as follows:

- 7 (1) By October 30, 2008, the Cabinet for Health and Family Services shall submit to
8 the Center for Medicare and Medicaid Services an amendment to the State
9 Medicaid Plan to permit the establishment of a Kentucky Long-Term Care
10 Partnership Insurance Program that provides for the disregard of any assets or
11 resources in an amount equal to the insurance benefit payments made to or on
12 behalf of an individual who is a beneficiary of the partnership insurance program
13 that meets the requirements of KRS 304.14-640 and 304.14-642.

- 14 (2) The secretary of the cabinet shall notify in writing the executive director of the
15 Department~~{Office}~~ of Insurance and the co-chairs of the Interim Joint Committee
16 on Health and Welfare and the Interim Joint Committee on Banking and Insurance
17 within two (2) business days of the submission of the plan amendment and of the
18 receipt of the response by the federal agency.

- 19 (3) Upon approval by the federal government of the state plan amendment, the
20 Department for Medicaid Services, in conjunction with the Department~~{Office}~~ of
21 Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance
22 Program in accordance with KRS 304.14-640 and 304.14-642.

- 23 (4) The department shall:

- 24 (a) Provide consultation, information, and materials to the Department~~{Office}~~ of
25 Insurance to assist in the development and issuance of uniform training
26 materials in accordance with KRS 304.14-642(4); and

- 27 (b) Collaborate in the preparation of the report required in KRS 304.14-642(6).

➔ Section 304. KRS 207.130 is amended to read as follows:

As used in KRS 207.140 to 207.240 unless the context otherwise requires:

- (1) "Persons" means one (1) or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations.
- (2) "Physical disability" means the physical condition of a person whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.
- (3) "Employer" means a person or governmental unit or officer in this state having in his or its employ eight (8) or more individuals; and any person acting in the interest of an employer, directly or indirectly.
- (4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint system or board, or joint council so engaged which is subordinate to a national or international labor organization.
- (5) "Unfair employment practice" means an act that is prohibited under KRS 207.150, 207.160 or 207.170.
- (6) "Commissioner" ~~means~~ ~~[Executive — director" — shall — mean]~~ the commissioner ~~[executive director]~~ of the Department ~~[Office]~~ of Workplace Standards, under the direction and supervision of the secretary ~~[commissioner]~~ of the ~~[Department of]~~ Labor Cabinet.
- (7) "Department" ~~means~~ ~~[Office" — shall — mean]~~ the Department ~~[Office]~~ of Workplace Standards in the ~~[Department of]~~ Labor Cabinet.

➔ Section 305. KRS 207.200 is amended to read as follows:

- (1) The Kentucky Department~~[Office]~~ of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.
- (2) Any individual with a disability requesting the intervention of the Kentucky Department~~[Office]~~ of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner~~[executive director]~~ of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner~~[executive director]~~ of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department~~[Office]~~ of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.
- (3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner~~[executive director]~~ of workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department~~[Office]~~ of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner~~[executive director]~~ of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:
 - (a) Specifying and describing the disability or disabilities affecting the individual;
 - and
 - (b) Indicating any specific type of employment for which such disability should

1 be considered a bona fide or necessary reason for limitation or exclusion.

2 (4) (a) The state agencies which may be consulted under subsection (3) of this
3 section may include, but are not limited to, the following:

- 4 1. Department of Education, Office of Vocational Rehabilitation Services;
- 5 2. Cabinet for Health and Family Services, Department for Public Health;
- 6 3. Cabinet for Health and Family Services, Department for Disability
7 Determination Services.

8 (b) The commissioner~~executive director~~ of workplace standards, in conjunction
9 with the agencies designated in this subsection, is authorized to adopt
10 appropriate regulations governing the issuance and setting the standards of
11 determinations of ability or disability;

12 (c) The agencies designated in this subsection, and any other state agency which
13 serves individuals with disabilities and which the commissioner~~executive~~
14 ~~director~~ of workplace standards deems proper, shall cooperate to the fullest
15 with the Department~~Office~~ of Workplace Standards in issuing a statement
16 of disability and limitations as specified in subsection (3) of this section
17 within twenty (20) days of the date the individual with a disability presents
18 himself before such agency for examination.

19 (5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner~~executive~~
20 ~~director~~ of workplace standards, or his authorized representative, shall have
21 the power to enter the place of employment of any employer, labor
22 organization, or employment agency to inspect and copy employment records,
23 to compare character of work and operations on which persons employed by
24 him are engaged, to question such persons, and to obtain such other
25 information as is reasonably necessary to make a preliminary determination
26 that the aggrieved individual is, or is not, fully capable of carrying out the
27 duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

(c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department~~[Office]~~ of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner~~[executive—director]~~ of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

(d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

→Section 306. KRS 207.210 is amended to read as follows:

(1) If the employer, labor organization, or employment agency continues to refuse employment to the aggrieved individual, the aggrieved individual may file a formal administrative complaint with the Department~~[Office]~~ of Workplace Standards and, upon that filing, the commissioner~~[executive—director]~~ of workplace standards or his representative shall conduct an administrative hearing in accordance with KRS

Chapter 13B.

(2) If the Department~~{Office}~~ of Workplace Standards determines that the employer, labor organization, or employment agency has not engaged in an unfair employment practice, it shall after the hearing issue a final order dismissing the complaint.

(3) If the Department~~{Office}~~ of Workplace Standards determines that the employer, labor organization, or employment agency has engaged in an unfair employment practice, the department shall issue a final order requiring the employer, labor organization, or employment agency to cease and desist from the unlawful practice and to take affirmative action as in the judgment of the department will carry out the purposes KRS 207.130 to 207.240.

(4) Affirmative action ordered under this section may include, but is not limited to:

(a) Hiring, reinstatement, or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the aggrieved individual shall operate to reduce the back pay otherwise allowable;

(b) Admission or restoration of the aggrieved individual to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to these programs;

(c) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the employer;

(d) Reporting as to the manner of compliance;

(e) Posting notices in conspicuous places in the employer's place of business in form prescribed by the Department~~{Office}~~ of Workplace Standards.

➔Section 307. KRS 207.230 is amended to read as follows:

Notwithstanding the provisions of KRS 207.200 and 207.210, citizen suits may be commenced under the following terms and conditions:

1 (1) Any person deeming himself injured by any act in violation of the provisions of this
 2 chapter shall have a civil cause of action in Circuit Court to enjoin further
 3 violations, and to recover the actual damages sustained by him, and upon judicial
 4 finding of any violation of KRS 207.150 to 207.190, shall recover the costs of the
 5 law suit, including a reasonable fee for his attorney of record, all of which shall be
 6 in addition to any other remedies contained in KRS 207.130 to 207.240.

7 (2) Notice. No action may be commenced:

8 (a) Prior to thirty (30) days after the plaintiff has given notice of the violation to
 9 the commissioner~~[executive director]~~ of workplace standards.

10 (b) If the commissioner~~[executive director]~~ of workplace standards has
 11 commenced and is diligently prosecuting a civil action to require compliance
 12 with KRS 207.130 to 207.240; however, the aforementioned conditions do not
 13 prohibit citizen-initiated civil enforcement action contemporaneously with
 14 criminal enforcement efforts by the state.

15 (c) In any civil action under this section, the commissioner~~[executive director]~~ of
 16 workplace standards, under the direction of the secretary~~[commissioner]~~
 17 of the ~~[Department of]~~ Labor Cabinet, if not a party, may intervene only with
 18 consent of the person bringing the action. If the administrator is allowed to
 19 intervene, he may not alter the cause of action, delay the proceedings, or make
 20 any decisions, settlement agreements, or agree to any consent orders or
 21 enforcement proceeding without the informed consent of the person initiating
 22 the citizens enforcement action.

23 ➔Section 308. KRS 211.285 is amended to read as follows:

24 (1) There is hereby created the "Malt Beverage Educational Fund" which shall provide
 25 moneys on a matching basis for educational information and materials that deter or
 26 eliminate underage drinking. The fund shall consist of moneys generated from one
 27 percent (1%) of the excise tax collected from the sale and distribution of malt

1 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected
2 from distributors of malt beverages under KRS 243.884.

3 (2) The "Malt Beverage Educational Fund" shall be established in the State Treasury as
4 a trust and revolving account under KRS 45.253. Moneys in the account shall be
5 distributed by the State Treasurer to the Malt Beverage Educational Corporation, a
6 nonprofit organization that is organized under the laws of this state, upon the
7 authorization of the secretary of the Cabinet for Health and Family Services. The
8 moneys shall be awarded to the corporation solely to fund educational programs to
9 deter or eliminate underage drinking.

10 (3) The secretary of the Cabinet for Health and Family Services shall authorize that
11 moneys from the fund be disbursed to the corporation upon the secretary's receipt of
12 a certification from the corporation showing the moneys the corporation has
13 received from malt beverage distributors and other private sources since the last
14 certification. The moneys disbursed from the fund shall be equal to the
15 contributions that the corporation has received from its members and other private
16 sources during that period. The moneys in the fund shall be disbursed in accordance
17 with a schedule established by the secretary, and shall be disbursed until the moneys
18 in the fund are exhausted or until the moneys in the fund lapse in accordance with
19 subsection (4) of this section, whichever comes first.

20 (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at
21 the end of the fiscal year and shall be returned to the general fund.

22 (5) As a condition of receiving the governmental funds, the corporation's board of
23 directors shall include the following among its directors:

- 24 (a) The Governor or his or her designee;
- 25 (b) The Attorney General or his or her designee;
- 26 (c) The President of the Senate or his or her designee;
- 27 (d) The Speaker of the House or his or her designee;

1 (e) The secretary of the Cabinet for Health and Family Services or his or her
2 designee; and

3 (f) The commissioner~~[executive director]~~ of the Department~~[Office]~~ of
4 Alcoholic Beverage Control or his or her designee.

5 (6) All expenditures of moneys from the fund shall be approved by a majority of those
6 persons set out in subsection (5)(a) to (f) of this section. If the moneys from the
7 fund are not expended in their entirety, any moneys that remain unused by the
8 corporation at the end of the fiscal year shall be returned to the general fund.

9 (7) Any moneys from the fund that are not expended shall be returned to the general
10 fund upon the dissolution of the corporation.

11 (8) Any high school in the Commonwealth of Kentucky that was registered with the
12 Department of Education as of July 1, 1997, may make an application to the Malt
13 Beverage Education Corporation by February 28 of each year and shall be granted a
14 minimum of five hundred dollars (\$500) annually from the funds contributed by the
15 Malt Beverage Educational Fund for the single purpose of supporting "Project
16 Graduation" events.

17 ➔Section 309. KRS 211.345 is amended to read as follows:

18 The Department for Public Health in the Cabinet for Health and Family Services shall
19 establish a program for testing, upon request of the owner or user of the water supply,
20 private water supplies for bacterial and chemical contamination, and for educating the
21 public about proper siting and drilling of wells and treatment of wells and other private
22 water supplies. The program shall consist of the following elements:

23 (1) The development of policies, in conjunction with the Energy and
24 Environment~~[Environmental and Public Protection]~~ Cabinet, for testing private
25 water supplies and using relevant information in a groundwater database;

26 (2) The development of a data collection system, in conjunction with the Energy and
27 Environment~~[Environmental and Public Protection]~~ Cabinet, which shall contain

1 the results of water sample tests and information on well location sufficient to
2 locate the wells on an official map;

3 (3) The development of a private water supply user's manual to be made available to
4 the public; and

5 (4) The development of a technical assistance program for private water supply users.

6 ➔Section 310. KRS 211.350 is amended to read as follows:

7 (1) The cabinet shall regulate the construction, installation, or alteration of on-site
8 sewage disposal systems except for systems that have a surface discharge. The
9 cabinet shall create and maintain an electronic database for Kentucky on-site
10 wastewater systems information, which for each system shall include but not be
11 limited to permit application date, permit application status, system installation
12 date, system type, latitude and longitude of system, records of system plan and site
13 evaluations, inspection dates, and the condition of system at time of inspection. The
14 cabinet shall within twenty-four (24) months of July 12, 2006, annually report to the
15 Governor and the Legislative Research Commission on the status of on-site systems
16 statewide, including numbers and types of systems, summaries of conditions of
17 systems, geographic distribution, observations of trends, and recommendation for
18 future protection of public health and safety with on-site sewage disposal systems.

19 (2) The Department for Public Health shall maintain a current list of approved and
20 experimental on-site wastewater treatment technologies and shall make this list
21 available, and guidance and expertise, to local health departments, which will
22 provide it to on-site wastewater professionals and permit applicants.

23 (3) Site evaluations shall be completed by the local health department within fifteen
24 (15) working days of receipt of the application. If further information is required,
25 the local health department shall promptly notify the applicant and shall have an
26 additional ten (10) working days after that submittal of additional information in
27 which to evaluate and issue or deny the permit. It shall be the responsibility of the

1 property owner or owner's agent to protect and maintain the suitability of an
2 approved site and to notify the local health department for a reinspection if site
3 conditions substantively change. If a site previously determined to be suitable is
4 thereafter declared unsuitable by the local health department, remedial measures
5 shall be provided in writing to the property owner or owner's agent within fifteen
6 (15) working days.

7 (4) After the conclusion of the site evaluation, the local health department shall, upon
8 request, provide a list of all options that may be approved for the property, including
9 new and emerging technologies. It shall be the responsibility of the owner of
10 advanced treatment, alternative, experimental, or new and emerging technology
11 systems to contract with a management entity, certified system operator, or trained
12 system operator to develop and implement an approved operations and maintenance
13 plan specific to, and appropriate for, the approved system.

14 (5) No person, firm, or corporation shall construct, install, alter, or cause to be
15 constructed, installed, or altered, any on-site sewage disposal system subject to
16 regulation by the cabinet without having first obtained an on-site sewage disposal
17 permit from the local health department. In lieu of inspection and certification by
18 the local health department a licensed professional engineer in private practice
19 licensed by the Commonwealth of Kentucky may perform site evaluations and
20 approve system designs for an on-site sewage disposal system for the person, firm,
21 or corporation and apply for the permit from the local health department. The final
22 systems installation inspection shall be performed by the local health department as
23 soon as practicable. All applicable provisions of KRS Chapter 322 shall govern the
24 licensed professional engineer. A professional engineer shall not perform site
25 evaluations, approve system designs, or certify system installations of an on-site
26 sewage disposal system on property owned by himself, an employee, or a partner of
27 an engineering firm by which he is employed, or on property owned by the

1 engineering firm. Nothing in this section shall be construed to deny a farmstead
2 owner the right to obtain a permit. Except for farmstead owners on their own
3 property, the construction, installation, or alteration shall be performed only by a
4 person certified by the cabinet pursuant to KRS 211.357.

5 (6) A local health department that issues a permit for an on-site sewage disposal system
6 based on the site evaluation or system design of a licensed professional engineer in
7 private practice licensed by the Commonwealth of Kentucky shall not be held liable
8 for any defects or failures of the on-site sewage disposal system due to the site
9 evaluation or system design.

10 (7) No person, firm, or corporation shall use or continue to use or permit the use or
11 continued use of any on-site sewage disposal system that is constructed, installed, or
12 altered under an on-site sewage disposal permit if the cabinet or local health
13 department through a duly authorized inspector, employee, agent, or licensed
14 professional engineer in private practice licensed by the Commonwealth of
15 Kentucky finds that the system was not constructed, installed, or altered in
16 conformance with the permit and regulations issued by the cabinet.

17 (8) No certified electrical inspector acting under authority of KRS 227.491 shall issue
18 the certificates of approval of temporary or permanent electrical wiring unless the
19 inspector has in his or her possession a notice of release as described in paragraphs
20 (a) and (b) of this subsection. The inspector shall record the number of the notice of
21 release on the certificate of approval. The person requesting approval of electrical
22 wiring shall be responsible for obtaining the release from the local health
23 department and providing it to the electrical inspector. This requirement shall only
24 apply to dwellings, mobile homes, manufactured housing, buildings, or other
25 structures that are constructed or installed after July 15, 1998. This requirement
26 shall not apply to structures that do not have sewage waste fixtures or to those that
27 are connected to a sewage waste disposal system approved by the Energy and

1 **Environment**~~[Environmental and Public Protection]~~ Cabinet. Nothing in this
 2 section shall be construed to deny the continued use of any electrical service
 3 connected to wiring approved prior to July 15, 1998.

4 (a) An initial notice of release to allow temporary electrical power for
 5 construction shall be issued to the property owner or owner's agent by the
 6 local health department upon the application for a site evaluation.

7 (b) A final notice of release to allow for permanent electrical power shall be
 8 issued to the property owner or owner's agent by the local health department
 9 upon approval of an on-site sewage disposal plan.

10 (c) This section shall not apply to any county that has adopted the Uniform State
 11 Building Code and has and enforces on-site sewage disposal permitting.

12 (9) All applications for on-site sewage disposal permits shall be accompanied by plans
 13 and specifications for the proposed system, including results of soils tests and other
 14 information as directed by the cabinet by regulation. If the site evaluation or
 15 approval of the system design is performed by a licensed professional engineer in
 16 private practice licensed by the Commonwealth of Kentucky, the application shall
 17 be accompanied by a statement by the engineer that he has met the requirements of
 18 the regulations issued by the cabinet for site evaluation and system design. Any
 19 action to deny an application shall be subject to appeal, and upon appeal an
 20 administrative hearing shall be conducted in accordance with KRS Chapter 13B.

21 (10) The cabinet shall fix a schedule of fees for the functions performed by the cabinet
 22 relating to the regulation of on-site sewage disposal systems. The fees shall be
 23 designed to fully cover the cost of the service performed but shall not exceed the
 24 cost of the service performed. Fees payable to the cabinet shall be paid into the
 25 State Treasury and credited to a trust and agency fund to be used by the cabinet in
 26 carrying out its responsibilities relating to the regulation of on-site sewage disposal
 27 systems. No part of the fund shall revert to the general fund of the Commonwealth.

1 (11) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992,
 2 shall remain in effect until altered by the secretary. The secretary may issue
 3 additional regulations necessary to carry out the purposes of this section.

4 (12) Nothing in this section shall authorize or allow the cabinet to inspect or take
 5 enforcement action against on-site sewage disposal systems installed on farmsteads
 6 prior to July 15, 1992, or modifications to those systems unless the actions are
 7 determined in writing by the cabinet, upon a written, verified complaint, to be
 8 necessary to prevent imminent harm or damage to the safety, life, or health of a
 9 person. In this instance, the cabinet shall deliver to the landowner a copy of the
 10 written determination and the verified complaint prior to the commencement of the
 11 inspection or enforcement action.

12 ➔Section 311. KRS 211.365 is amended to read as follows:

13 In order to provide for the issuance of plumbing installation permits pursuant to KRS
 14 Chapter 318 and on-site sewage disposal permits pursuant to this chapter in a manner
 15 convenient to the public, the Cabinet for Health and Family Services shall provide office
 16 space in the local departments of health for the district plumbing inspector without fee or
 17 charge to the Department~~{Office}~~ of Housing, Buildings and Construction.

18 ➔Section 312. KRS 211.481 is amended to read as follows:

19 (1) The Kentucky Cardiovascular Disease Initiative (KCDI) is hereby created with the
 20 program goals that include but are not limited to:

- 21 (a) Preventing and reducing the prevalence of cardiovascular disease in Kentucky
- 22 through early detection and education;
- 23 (b) Reducing the incidence of deaths from cardiovascular disease in Kentucky;
- 24 (c) Measurably reducing health-care costs associated with cardiovascular disease
- 25 in Kentucky;
- 26 (d) Conducting research and developing new intellectual property and ancillary
- 27 health businesses that create new knowledge-based businesses in Kentucky;

- 1 (e) Improving access to best practices and protocols for cardiovascular disease for
- 2 all Kentuckians through an e-health network; and
- 3 (f) Assisting in securing state, federal, and private funding to stimulate health
- 4 information capacities.
- 5 (2) The KCDI shall be governed by a board that shall be appointed by the secretary of
- 6 the Cabinet for Health and Family Services, except as provided in paragraphs (q) to
- 7 (s) of this subsection, no later than August 1, 2007, and composed of:
- 8 (a) One (1) member shall be appointed by the secretary of the Cabinet for Health
- 9 and Family Services who shall serve as chair of the KCDI during the first
- 10 year, and this individual shall remain as a board member for two (2) additional
- 11 years. The board shall elect its chair after the first year and may reelect the
- 12 current chair;
- 13 (b) The president of the University of Louisville, or a designee;
- 14 (c) The president of the University of Kentucky, or a designee;
- 15 (d) The secretary or designee of the Cabinet for Health and Family Services;
- 16 (e) The commissioner or designee of the Department of Commercialization and
- 17 Innovation;
- 18 (f) The commissioner or designee of the Department for Public Health;
- 19 (g) The commissioner~~executive director~~ or designee of the Department~~Office~~
- 20 of Insurance;
- 21 (h) The chair of the Kentucky e-Health Network Board, or a designee;
- 22 (i) One (1) representative of a Kentucky comprehensive university and one (1)
- 23 representative of the Kentucky Community and Technical College System;
- 24 (j) Two (2) physicians with experience in research and treatment of
- 25 cardiovascular disease, one (1) recommended by the dean of the medical
- 26 school at the University of Louisville and one (1) recommended by the dean
- 27 of the medical school at the University of Kentucky;

- 1 (k) The executive director of the Kentucky Primary Care Association;
- 2 (l) The president of the Kentucky Academy of Family Physicians;
- 3 (m) One (1) member of a Kentucky chapter of the American Heart Association;
- 4 (n) Four (4) members representing the business community, from a list of eight
- 5 (8) persons recommended by the Kentucky Chamber of Commerce;
- 6 (o) Four (4) members representing private sector hospitals that treat the greatest
- 7 number of cardiology patients as measured by the number of MDC 5
- 8 discharges and as reported by COMPdata or its successor;
- 9 (p) One (1) representative from a freestanding pediatric teaching hospital;
- 10 (q) One (1) at-large member appointed by the Governor;
- 11 (r) Two (2) members of the Senate, one (1) representing each major political
- 12 party, appointed by the President of the Senate; and
- 13 (s) Two (2) members of the House of Representatives, one (1) representing each
- 14 major political party appointed by the Speaker of the House.
- 15 (3) (a) Members serving under paragraphs (b) to (h), (k), and (l) of subsection (2) of
- 16 this section shall serve by virtue of their positions and shall not be subject to
- 17 term limits.
- 18 (b) Members appointed under paragraphs (i) and (j) of subsection (2) of this
- 19 section shall serve three (3) year terms and may be reappointed to no more
- 20 than two (2) consecutive terms. Members shall continue to serve until a
- 21 successor is appointed.
- 22 (c) Members appointed under paragraphs (m) to (p) of subsection (2) of this
- 23 section shall serve staggered terms that shall not exceed three (3) year terms.
- 24 Members shall continue to serve until a successor is appointed.
- 25 (d) Members appointed under paragraphs (q), (r), and (s) of subsection (2) of this
- 26 section shall serve three (3) year terms.
- 27 (4) The KCDI board shall meet at least quarterly or upon the call of the chair. All

members may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement but shall not be otherwise compensated for duties associated with the board.

(5) The KCDI board may appoint committees, subcommittees, advisory councils, or other groups to assist in the furtherance of the goals of the KCDI. Members appointed under this subsection need not be members of the KCDI board and may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement but shall not be otherwise compensated for duties associated with the board.

(6) No member of the board shall be subject to personal liability for a loss sustained or damage suffered as a result of board action or inaction.

(7) The KCDI board shall be attached to the Cabinet for Health and Family Services for administrative purposes.

➔Section 313. KRS 211.852 is amended to read as follows:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky House of Representatives, a majority of the members of the Kentucky Senate, and the approval of the Governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky General Assembly, it must first receive the approval of the secretary of the Cabinet for Health and Family Services and the secretary of the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet. It shall be the responsibility of the Cabinet for Health and Family Services and the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet to ensure that a comprehensive environmental impact statement is submitted and that

1 public hearings are held in the county in which it is proposed to locate a nuclear
2 waste disposal facility.

- 3 (3) This section shall not apply to nuclear waste disposal facilities in existence prior to
4 June 17, 1978.

5 ➔Section 314. KRS 211.894 is amended to read as follows:

- 6 (1) The Governor, the secretary of the Cabinet for Health and Family Services, the
7 secretary of the Energy and Environment~~[Environmental and Public Protection]~~
8 Cabinet or any other state agency shall not enter into a contract or an agreement of
9 any kind with the federal government relinquishing ownership of a low-level
10 nuclear waste disposal site located in the Commonwealth without prior approval of
11 a majority of the members of the Kentucky House of Representatives and a majority
12 of the members of the Kentucky Senate.

- 13 (2) It shall be the policy of the Commonwealth to retain final authority for approving or
14 disapproving the locating, opening, closing, or reopening of a nuclear waste
15 disposal site or facility within its borders.

- 16 (3) The Governor or appropriate state agencies may enter into contracts and agreements
17 with the federal government relating to nuclear waste disposal sites located in the
18 Commonwealth on July 15, 1980, that do not violate the provisions of subsections
19 (1) and (2) of this section.

20 ➔Section 315. KRS 211.896 is amended to read as follows:

- 21 (1) Any nuclear waste disposal facility, licensed and regulated by the Kentucky Cabinet
22 for Health and Family Services, which is closed either because there is doubt as to
23 the public safety of the site, the integrity of the site, the economic feasibility of
24 financing perpetual care and maintenance and decommissioning of the site, or
25 compliance with cabinet regulations, shall not reopen without:

- 26 (a) A finding of fact by the secretary of the Cabinet for Health and Family
27 Services and the secretary of the Energy and Environment~~[Environmental~~

1 ~~and Public Protection~~ Cabinet that all reasons for site closure have been
 2 addressed and resolved such that there is no longer any doubt as to the public
 3 safety or integrity of the site or the ability to adequately finance the perpetual
 4 care and maintenance and decommissioning of the site or the compliance of
 5 the site with cabinet regulations; and

6 (b) A public hearing and the taking of public comment on such findings of fact;
 7 and

8 (c) Approval of a majority of the members of the House of Representatives and a
 9 majority of the members of the Senate; and

10 (d) Approval of the Governor.

11 (2) The Cabinet for Health and Family Services shall be responsible for organizing the
 12 public hearings, which shall be held in the county in which the nuclear waste
 13 disposal facility is located and shall be at a time and place convenient for public
 14 participation. Adequate notification shall be given to the public of the intention to
 15 reopen a nuclear waste disposal site and the cabinet shall make available to the
 16 public the data and information upon which its decision to recommend approval of
 17 reopening of the site is based.

18 ➔Section 316. KRS 211.898 is amended to read as follows:

19 The **Energy and Environment**~~Environmental and Public Protection~~ Cabinet shall
 20 proceed toward the stabilization and decommissioning of any nuclear waste facility
 21 owned by the Commonwealth on July 15, 1980, as expeditiously as is reasonably possible
 22 in order to place the facility in such a condition that active ongoing maintenance is
 23 eliminated and only surveillance and monitoring are required.

24 ➔Section 317. KRS 216.265 is amended to read as follows:

25 (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for
 26 Health and Family Services for administrative and technical support purposes.

27 (2) The board shall consist of the following voting members:

- 1 (a) President, or a designee, of the University of Kentucky, who shall serve as co-
- 2 chair of the board;
- 3 (b) President, or a designee, of the University of Louisville, who shall serve as co-
- 4 chair of the board;
- 5 (c) Commissioner, or a designee, of the Department for Public Health;
- 6 (d) Commissioner, or a designee, of the Department for Medicaid Services;
- 7 (e) Executive director, or a designee, of the Commonwealth Office of
- 8 Technology; and
- 9 (f) Nine (9) at-large members appointed by the Governor as follows:
 - 10 1. One (1) member engaged in the business of large-scale e-strategy and
 - 11 computer information technology;
 - 12 2. One (1) member engaged in the business of health insurance who is
 - 13 employed by a company that has its headquarters in Kentucky;
 - 14 3. Two (2) members from a list of four (4) individuals recommended by
 - 15 the Kentucky Hospital Association, one (1) representing rural hospitals,
 - 16 and one (1) representing urban hospitals;
 - 17 4. Two (2) physicians actively engaged in the practice of medicine in the
 - 18 Commonwealth from a list of four (4) physicians recommended by the
 - 19 Kentucky Medical Association, or self-nominated;
 - 20 5. One (1) member from a company with at least one thousand (1,000)
 - 21 employees selected from a list of four (4) individuals submitted by the
 - 22 Associated Industries of Kentucky;
 - 23 6. One (1) member with experience as a physician practice manager; and
 - 24 7. One (1) member at large.
- 25 (3) The board shall consist of the following ex officio members who may vote, but
- 26 shall not be counted toward a quorum:
- 27 (a) Commissioner, or a designee, of the Department of Commercialization and

- 1 Innovation;
- 2 (b) President, or a designee, of the Council on Postsecondary Education;
- 3 (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
- 4 (d) Commissioner~~[Executive director]~~, or a designee, of the Department~~[Office]~~
5 of Insurance;
- 6 (e) Two (2) members of the Senate who are members of the Interim Joint
7 Committee on Health and Welfare or the Interim Joint Committee on Banking
8 and Insurance, appointed by the President of the Senate; and
- 9 (f) Two (2) members of the House of Representatives who are members of the
10 Interim Joint Committee on Health and Welfare or the Interim Joint
11 Committee on Banking and Insurance, appointed by the Speaker of the House.
- 12 (4) Members of the board shall serve a term of four (4) years and may serve two (2)
13 consecutive terms.
- 14 (5) At the end of a term, a member of the board shall continue to serve until a successor
15 is appointed. A member who is appointed after a term has begun shall serve the rest
16 of the term and until a successor is appointed. A member of the board who serves
17 two (2) consecutive full four (4) year terms shall not be reappointed for four (4)
18 years after completion of those terms. Members designated in subsection (2)(a) to
19 (e) of this section and members designated in subsection (3) of this section shall
20 serve on the board only while holding their respective titles.
- 21 (6) A majority of the full membership of the board shall constitute a quorum.
- 22 (7) The board may employ staff or contract with consultants necessary for the
23 performance of the duties of the board, subject to the appropriation of funds.
- 24 (8) No member of the board shall be subject to any personal liability or accountability
25 for any loss sustained or damage suffered on account of any action or inaction of the
26 board.
- 27 (9) Members of the board and all committees, except the advisory group created in

1 KRS 216.267(2), shall be entitled to reimbursement for actual and necessary
2 expenses when carrying out official duties of the board in accordance with state
3 administrative regulations relating to travel reimbursements. The board shall meet
4 at least monthly.

5 (10) The board may appoint committees or subcommittees with the charge of
6 investigating and making recommendations to the board on specific aspects of the
7 Ke-HN, including but not limited to evidence-based clinical decision support,
8 security of protected information, electronic data interchange, and clinical practice
9 software packages, including the feasibility of developing a software purchasing
10 alliance to decrease the cost of software and tax incentives to encourage members of
11 the network to purchase software deemed by the board to meet the standards of
12 KRS 216.267. The board may appoint the following committees:

- 13 (a) Clinical Decision Support Committee;
- 14 (b) Privacy and Security of Protected Health Information Committee;
- 15 (c) Electronic Data Interchange Committee; and
- 16 (d) Clinical Software Review Committee.

17 (11) The members of committees or subcommittees appointed by the board do not need
18 to be members of the board. The chairs of committees or subcommittees shall be
19 appointed by the board. The frequency of committee or subcommittee meetings
20 shall be established by the board.

21 (12) The Clinical Decision Support Committee membership shall include at least the
22 following members:

- 23 (a) One (1) physician with expertise in health informatics;
- 24 (b) Two (2) physicians actively engaged in the practice of medicine in this
25 Commonwealth from a list of four (4) physicians recommended by the
26 Kentucky Medical Association, or self-nominated;
- 27 (c) One (1) representative of a rural hospital and one (1) representative of an

- 1 urban hospital;
 - 2 (d) One (1) pharmacist;
 - 3 (e) One (1) representative engaged in the business of health-care information
 - 4 technology;
 - 5 (f) Two (2) members with experience as physician practice managers, one (1)
 - 6 from a single-physician practice and one (1) from a multiphysician practice;
 - 7 and
 - 8 (g) One (1) member engaged in the business of health insurance who is
 - 9 recommended by the Kentucky Association of Health Plans, Incorporated.
- 10 (13) The Privacy and Security of Protected Health Information Committee shall include
- 11 at least the following members:
- 12 (a) One (1) physician actively engaged in the practice of medicine in this
 - 13 Commonwealth;
 - 14 (b) Two (2) members with expertise in HIPAA regulations;
 - 15 (c) Two (2) members engaged in the business of large-scale e-strategy and
 - 16 computer information technology;
 - 17 (d) One (1) member who serves as a computer information officer within the
 - 18 health-care industry;
 - 19 (e) Two (2) members with experience as physician practice managers, one (1)
 - 20 from a single-physician practice and one (1) from a multiphysician practice;
 - 21 (f) One (1) member engaged in the business of health insurance who is
 - 22 recommended by the Kentucky Association of Health Plans, Incorporated; and
 - 23 (g) One (1) representative of a hospital.
- 24 (14) The Electronic Data Interchange Committee shall include at least the following
- 25 members:
- 26 (a) Two (2) members engaged in the business of large-scale e-strategy and
 - 27 computer information technology;

- 1 (b) Two (2) members engaged in the business of health insurance who are
- 2 recommended by the Kentucky Association of Health Plans, Incorporated;
- 3 (c) Chief information officer, or a designee, of the Office of Technology within
- 4 the Cabinet for Health and Family Services;
- 5 (d) Two (2) members with experience as physician practice managers, one (1)
- 6 from a single-physician practice and one (1) from a multiphysician practice;
- 7 and
- 8 (e) One (1) representative of a hospital.

9 (15) The Clinical Software Review Committee shall include at least the following
10 members:

- 11 (a) One (1) member from a company that develops computer software for
- 12 physician practices;
- 13 (b) One (1) member engaged in the business of large-scale e-strategy and
- 14 computer information technology;
- 15 (c) Three (3) physicians, with one (1) having experience in electronic information
- 16 technology;
- 17 (d) Two (2) members with experience as physician practice managers, one (1)
- 18 from a single-physician practice and one (1) from a multiphysician practice;
- 19 (e) One (1) member engaged in the business of health insurance who is
- 20 recommended by the Kentucky Association of Health Plans, Incorporated or
- 21 employed by a company which has its headquarters in Kentucky; and
- 22 (f) One (1) representative of a hospital.

23 (16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-
24 Health Network Board to include the Kentucky Telehealth Board and to reorganize
25 the Telehealth Board under the Cabinet for Health and Family Services. If the
26 Governor deems it appropriate, the reorganization shall create a new Telehealth
27 Committee of the Ke-HN board with the membership and responsibilities as

1 described under KRS 194A.125 and shall be subject to confirmation by the General
2 Assembly under the requirements of KRS 12.028.

3 ➔Section 318. KRS 216.2923 is amended to read as follows:

4 (1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the
5 secretary may:

6 (a) Appoint temporary volunteer advisory committees, which may include
7 individuals and representatives of interested public or private entities or
8 organizations;

9 (b) Apply for and accept any funds, property, or services from any person or
10 government agency;

11 (c) Make agreements with a grantor of funds or services, including an agreement
12 to make any study allowed or required under KRS 216.2920 to 216.2929; and

13 (d) Contract with a qualified, independent third party for any service necessary to
14 carry out the provisions of KRS 216.2920 to 216.2929; however, unless
15 permission is granted specifically by the secretary a third party hired by the
16 secretary shall not release, publish, or otherwise use any information to which
17 the third party has access under its contract.

18 (2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the
19 secretary shall:

20 (a) Publish and make available information that relates to the health-care
21 financing and delivery system, information on charges for health-care services
22 and the quality and outcomes of health-care services, the cost of workers'
23 compensation health benefits, motor vehicle health insurance benefits, and
24 health insurance premiums and benefits that is in the public interest;

25 (b) Periodically participate in or conduct analyses and studies that relate to:

26 1. Health-care costs;

27 2. Health-care quality and outcomes;

1 3. Health-care providers and health services; and

2 4. Health insurance costs;

3 (c) Promulgate administrative regulations pursuant to KRS Chapter 13A that
4 relate to its meetings, minutes, and transactions related to KRS 216.2920 to
5 216.2929;

6 (d) Prepare annually a budget proposal that includes the estimated income and
7 proposed expenditures for the administration and operation of KRS 216.2920
8 to 216.2929; and

9 (e) No later than thirty (30) days after July 15, 2005, appoint and convene a
10 permanent cabinet advisory committee. The committee shall advise the
11 secretary on the collection, analysis, and distribution of consumer-oriented
12 information related to the health-care system, the cost of treatment and
13 procedures, outcomes and quality indicators, and policies and regulations to
14 implement the electronic collection and transmission of patient information
15 (e-health) and other cost-saving patient record systems. At a minimum, the
16 committee shall be composed of the following:

17 1. Commissioner of the Department for Public Health;

18 2. Commissioner of the Department for Mental Health and Mental
19 Retardation Services;

20 3. Commissioner of the Department for Medicaid Services;

21 4. Commissioner~~Executive director~~ of the Department~~Office~~ of
22 Insurance;

23 5. Physician representatives;

24 6. Hospital representatives;

25 7. Health insurer representatives;

26 8. Consumers; and

27 9. Nonphysician health-care providers.

(f) The cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters, including a review of administrative regulations promulgated pursuant to KRS Chapter 13A, proper interpretation of the data, and the most cost-efficient manner in which it should be published and disseminated to the public, state and local leaders in health policy, health facilities, and health-care providers. The Health Services Data Advisory Committee shall review and make recommendations to the cabinet advisory committee regarding exploration of technical matters related to data from other health-care providers and shall make recommendations on methods for risk-adjusting any data prepared and published by the cabinet.

(3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars (\$500) for each violation for knowingly failing to file a report as required under KRS 216.2920 to 216.2929. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

➔Section 319. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report on a quarterly basis information regarding the charge for and quality of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A.

1 The cabinet shall accept data which, at the option of the provider is submitted
2 through a third party, including but not limited to organizations involved in the
3 processing of claims for payment, so long as the data elements conform to the
4 requirements established by the cabinet. The cabinet may conduct statistical surveys
5 of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring
6 the submission of information by all hospitals, ambulatory facilities, or providers.
7 On at least a biennial basis, the cabinet shall conduct a statistical survey that
8 addresses the status of women's health, specifically including data on patient age,
9 ethnicity, geographic region, and payor sources. The cabinet shall rely on data from
10 readily available reports and statistics whenever possible.

11 (2) The cabinet shall require for submission to the cabinet by any group of providers,
12 except for physicians providing services or dispensaries, first aid stations, or clinics
13 located within business or industrial establishments maintained solely for the use of
14 their employees, including those categories within the definition of provider
15 contained in KRS 216.2920 and any further categories determined by the cabinet, at
16 the beginning of each fiscal year after January 1, 1995, and within the limits of the
17 state, federal, and other funds made available to the cabinet for that year, and as
18 provided by cabinet promulgation of administrative regulations pursuant to KRS
19 Chapter 13A, the following:

- 20 (a) A list of medical conditions, health services, and procedures for which data on
21 charge, quality, and outcome shall be collected and published;
- 22 (b) A timetable for filing information provided for under paragraph (a) of this
23 subsection on a quarterly basis;
- 24 (c) A list of data elements that are necessary to enable the cabinet to analyze and
25 disseminate risk-adjusted charge, quality, and outcome information, including
26 mortality and morbidity data;
- 27 (d) An acceptable format for data submission which shall include use of the

uniform:

1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet if in the form of hard copy; or
 2. Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;
- (e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and
- (f) Procedures pertaining to the confidentiality of data collected.
- (3) The cabinet shall coordinate but not duplicate its data-gathering activities with other data-collection activities conducted by the Department~~Office~~ of Insurance, as well as other state and national agencies which collect health-related service, utilization, quality, outcome, financial, and health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.
- (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.
- (5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

1 (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at
2 any time after July 15, 1996.

3 (7) The Cabinet for Health and Family Services shall collect all data elements under
4 this section using only the uniform health insurance claim form pursuant to KRS
5 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837
6 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare
7 and Medicaid Services.

8 ➔Section 320. KRS 216.2960 is amended to read as follows:

9 (1) By January 1, 1995, the Department~~[Office]~~ of Insurance shall promulgate
10 administrative regulations pursuant to KRS Chapter 13A authorizing the
11 establishment by March 1, 1995, of pilot projects for twenty-four (24) hour health
12 coverage. The total number of participants in the pilot projects cannot exceed five
13 percent (5%) of all insured persons who are covered both by workers' compensation
14 and general health insurance. The administrative regulations for the pilot projects
15 shall provide that:

16 (a) A twenty-four (24) hour policy may cover general health care for purposes of
17 general health insurance, auto insurance, workers' compensation, or health
18 care normally covered by any line of insurance written in the Commonwealth;

19 (b) A twenty-four (24) hour coverage policy shall not contain deductibles or
20 copayments for medical services or treatment for work-related injuries or
21 diseases; and

22 (c) There shall be no transfer of liabilities or expenses between or among
23 particular lines of insurance whose medical or health components have been
24 combined into a twenty-four (24) hour coverage for health care.

25 (2) No policy for twenty-four (24) hour coverage shall become effective until it is
26 reviewed and approved by the Department~~[Office]~~ of Insurance.

27 (3) Notwithstanding any other provision of the Kentucky Revised Statutes to the

1 contrary, each insurer authorized or licensed to write insurance in the
 2 Commonwealth shall provide any information requested by the department~~{office}~~
 3 for the purpose of developing a twenty-four (24) hour health policy.

4 (4) The purchase of a twenty-four (24) hour health policy shall not constitute an
 5 exemption from statutory provisions which require other nonmedical insurance
 6 coverage. However, an insurance carrier shall reduce its premium for insurance
 7 coverage written without the medical or health care component. Notwithstanding
 8 the provisions of Subtitle 13 of KRS Chapter 304, the premium reduction required
 9 in this subsection shall be subject to the approval of the commissioner~~{executive
 10 director}~~ of the Department~~{Office}~~ of Insurance.

11 (5) If an employer obtains a twenty-four (24) hour health insurance policy, pursuant to
 12 this section, to secure payment of compensation for medical care and treatment
 13 under KRS Chapter 342, the employer shall also procure an insurance policy which
 14 shall provide indemnity benefits to ensure that the total coverage afforded by both
 15 the twenty-four (24) hour insurance policy and the policy providing indemnity
 16 benefits, shall provide the total compensation required by KRS Chapter 342.

17 (6) The participants in a pilot project for twenty-four (24) hour health coverage shall
 18 comply with periodic reporting requirements of the Department~~{Office}~~ of
 19 Insurance.

20 (7) Each insurer authorized or licensed to write insurance in the Commonwealth shall
 21 cooperate with the department~~{office}~~ and shall provide any information requested
 22 by the department~~{office}~~ for the purpose of studying twenty-four (24) hour health
 23 policy.

24 (8) Each agency of state government shall cooperate with the department~~{office}~~ if
 25 requested to provide information for the purposes of this section.

26 ➔Section 321. KRS 217.127 is amended to read as follows:

27 (1) The secretary shall adopt regulations for the effective administration and

1 enforcement of KRS 217.005 to 217.215.

2 (2) The secretary shall adopt a state retail food code which shall include, among other
 3 things, provisions for regulating the issuance, suspension, and revocation of permits
 4 to operate; submission of plans for construction and equipment layout including
 5 plumbing, lighting, ventilation, water supply, sewage disposal, and other facilities;
 6 food supply source and protection; health, disease control and cleanliness of
 7 personnel; design, construction, installation, and cleanliness of equipment and
 8 utensils; toilet and hand-washing facilities; solid waste disposal and vermin control;
 9 and any other matters deemed necessary to insure a safe and sanitary operation of a
 10 retail food establishment. Standards for construction, plumbing, lighting, and
 11 ventilation of fixed retail food establishments shall be effective only if they are
 12 approved by the Board of Housing, Buildings and Construction and are included in
 13 the Uniform State Building Code, or if they conform to the State Plumbing Code in
 14 the case of plumbing fixtures. Any review of plans for construction, plumbing,
 15 lighting, and ventilation required before construction of a fixed retail food
 16 establishment shall be conducted by the Department~~[Office]~~ of Housing, Buildings
 17 and Construction or authorized local building official pursuant to KRS Chapter
 18 198B.

19 (3) The donation of safe and apparently wholesome food by a retail food establishment
 20 or any other entity regulated under subsections (1) and (2) of this section shall be
 21 exempt from any further inspection or regulation if the donated food has been
 22 inspected under subsections (1) and (2) of this section.

23 ➔Section 322. KRS 217.128 is amended to read as follows:

24 The state fire marshal or other duly authorized agents or representatives or other
 25 authorized agents pursuant to KRS Chapter 227 shall administer and enforce all state fire
 26 regulations, laws, standards of safety, and regulations adopted by the
 27 commissioner~~[executive director]~~ of housing, buildings and construction relating to retail

1 food establishments.

2 ➔Section 323. KRS 217.544 is amended to read as follows:

3 As used in this chapter, unless the context requires otherwise:

- 4 (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control,
5 or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant, or as
6 a functioning agent in a spray adjuvant;
- 7 (2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the
8 professed standard or quality as expressed on its labeling or under which it is sold,
9 or if any substance has been substituted wholly or in part for the pesticide, or if any
10 valuable constituent of the pesticide has been wholly or in part abstracted;
- 11 (3) "Animal" means all vertebrate and invertebrate species, including but not limited to
12 man and other mammals, birds, fish, and shellfish;
- 13 (4) "Antidote" means the most practical immediate treatment in case of poisoning and
14 includes first-aid treatment;
- 15 (5) "Board" means the Pesticide Advisory Board;
- 16 (6) "Defoliant" means any substance or mixture of substances intended to cause the
17 leaves or foliage to drop from a plant, with or without causing abscission;
- 18 (7) "Desiccant" means any substance or mixture of substances intended to artificially
19 accelerate the drying of plant tissue;
- 20 (8) "Device" means any instrument or contrivance other than a firearm which is
21 intended for trapping, destroying, repelling, or mitigating any pest or any other form
22 of plant or animal life other than man and other bacteria, virus, or other
23 microorganisms on or in living man or other living animals; but not including
24 equipment used for the application of pesticides when sold separately therefrom;
- 25 (9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for
26 shipment, or receive and, having received, deliver or offer to deliver pesticides in
27 this state;

- 1 (10) "Environment" includes water, air, land, and all plants and man and other animals
2 living therein and the interrelationships which exist among these;
- 3 (11) "EPA" means the United States Environmental Protection Agency;
- 4 (12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as
5 amended;
- 6 (13) "Fungi" means all nonchlorophyll-bearing thallophytes; that is, all nonchlorophyll-
7 bearing plants of a lower order than mosses and liverworts, as for example, rusts,
8 smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living
9 man or other living animals, and except those in or on processed food, beverages, or
10 pharmaceuticals;
- 11 (14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under
12 the authority of sec. 25(c)(2) of FIFRA or by the department under this chapter;
- 13 (15) "Imminent hazard" means a situation which exists when the continued use of a
14 pesticide would likely result in unreasonable adverse effects on the environment or
15 will involve unreasonable hazard to the survival of a species declared endangered
16 by the secretary of the United States Department of Interior under Pub. L. 91-135 of
17 the United States Congress;
- 18 (16) "Inert ingredient" means an ingredient which is not an active ingredient;
- 19 (17) "Ingredient statement" means a statement of the name and percentage of each active
20 ingredient together with the total percentage of the inert ingredients in the pesticide
21 and, when the pesticide contains arsenic in any form, a statement of the percentage
22 of total and water-soluble arsenic, each stated as elemental arsenic;
- 23 (18) "Insect" means any of the numerous small invertebrate animals generally having the
24 body more or less obviously segmented, for the most part belonging to the class
25 insecta, comprising six (6) legged, usually winged forms, as for example, beetles,
26 bugs, bees, flies, and to other allied classes of arthropods whose members are
27 wingless and usually have more than six (6) legs, as, for example, spiders, mites,

1 ticks, centipedes, and wood lice, also nematodes and other invertebrates which are
 2 destructive, constitute a liability, and may be classed as pests;

3 (19) "Label" means the written, printed, or graphic matter on, or attached to, the
 4 pesticide or device, or to any of its containers or wrappers;

5 (20) "Labeling" means the label and other written, printed, or graphic matter:

6 (a) On the pesticide or device, or any of its containers or wrappers;

7 (b) Accompanying the pesticide or device at any time or referring to it in any
 8 other media used to disseminate information to the public; and

9 (c) To which reference is made on the label or in the literature accompanying the
 10 pesticide or device, except when accurate nonmisleading reference is made to
 11 current official publications of the United States Environmental Protection
 12 Agency, the Departments of Agriculture and Interior, the Department of
 13 Health, Education and Welfare, and other similar federal institutions, the
 14 College of Agriculture, University of Kentucky, Kentucky Agricultural
 15 Experiment Station, Cabinet for Health and Family Services, Energy and
 16 Environment~~[Environmental and Public Protection]~~ Cabinet, or other
 17 agencies of this state or other states when such agencies are authorized by law
 18 to conduct research in the field of pesticides;

19 (21) "Land" means all land and water areas, including air space and all plants, animals,
 20 structures, buildings, contrivances, and machinery appurtenant thereto, or situated
 21 thereon, fixed or mobile, including any used for transportation;

22 (22) "Misbranded" means a pesticide is misbranded if:

23 (a) Its labeling bears any statement, design, or graphic representation relative
 24 thereto or to its ingredients which is false or misleading in any particular;

25 (b) It is an imitation of or is distributed under the name of another pesticide;

26 (c) The labeling accompanying it does not contain directions for use which are
 27 necessary for effecting the purpose for which the product is intended and, if

1 complied with, together with any requirements imposed under section 3(d) of
2 FIFRA are adequate to protect health and the environment;

3 (d) The labeling does not contain a statement of the use classification under which
4 the product is registered by EPA;

5 (e) The label does not contain a warning or caution statement which may be
6 necessary and if complied with, together with any requirements imposed
7 under section 3(d) of FIFRA, is adequate to protect health and the
8 environment;

9 (f) The label does not bear an ingredient statement on that part of the immediate
10 container, and on the outside container or wrapper, if there be one, through
11 which the ingredient statement on the immediate container cannot be clearly
12 read, of the retail package which is presented or displayed under customary
13 conditions of the purchase; provided, that the ingredient statement may appear
14 prominently on another part of the container pursuant to section 2(q) 2(A) (i)
15 (ii) of FIFRA if the size and form of the container makes it impractical to
16 place it on that part of the retail package which is presented or displayed under
17 customary conditions of purchase;

18 (g) Any word, statement, or other information required by KRS 217.542 to
19 217.630 or FIFRA to appear on the label or labeling is not prominently placed
20 thereon with such conspicuousness, as compared to other words, statements,
21 designs, or graphic matter in the labeling, and in such terms as to render it
22 likely to be read and understood by the ordinary individual under customary
23 conditions of purchase and use;

24 (h) The label does not bear the name, brand, or trademark under which the
25 pesticide is distributed;

26 (i) The label does not bear the net weight or measure of the content;

27 (j) The label does not bear the name and address of the manufacturer, registrant,

- 1 or person for whom manufactured; and
- 2 (k) The label does not bear the EPA registration number assigned to each
3 establishment in which the product is produced and the EPA number assigned
4 to the pesticide, if required by regulation under FIFRA;
- 5 (23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class
6 nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like
7 bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may
8 also be called nemas or eelworms;
- 9 (24) "Person" means any individual, partnership, association, or any organized group of
10 persons whether incorporated or not;
- 11 (25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other
12 form of plant or animal life, or virus, bacteria, or other microorganism, except
13 viruses, bacteria, or other microorganisms on or in living man or other living
14 animals, which is normally considered to be a pest, or which the department may
15 declare to be a pest;
- 16 (26) "Pesticide" means any substance or mixture of substances intended to prevent,
17 destroy, control, repel, attract, or mitigate any pest; any substance or mixture of
18 substances intended to be used as a plant regulator, defoliant, or desiccant; and any
19 substance or mixture of substances intended to be used as a spray adjuvant;
- 20 (27) "Plant regulator" means any substance or mixture of substances, intended through
21 physiological actions, to accelerate or retard the rate of growth or maturation, or to
22 otherwise alter the behavior of plants, but shall not include substances insofar as
23 they are intended to be used as plant nutrients, trace elements, nutritional chemicals,
24 plant inoculants, or soil amendments;
- 25 (28) "Protect health and the environment" means protection against any unreasonable
26 adverse effects on the environment;
- 27 (29) "Registrant" means a person who has registered any pesticide pursuant to the

1 provisions of KRS 217.542 to 217.630;

2 (30) "Restricted-use pesticide" means any pesticide classified for restricted use by the
3 administrator, EPA, or by regulation of the department;

4 (31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder,
5 adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent
6 intended to be used with any other pesticide as an aid to the application or to the
7 effect thereof, and which is in a package or container separate from that of the other
8 pesticide with which it is to be used;

9 (32) "Unreasonable adverse effects on the environment" means any unreasonable risk to
10 man or the environment, taking into account the economic, social, and
11 environmental costs and benefits of the use of any pesticide;

12 (33) "Weed" means any plant which grows where not wanted; and

13 (34) "Wildlife" means all living things that are neither human, domesticated, nor as
14 defined in KRS 217.542 to 217.630, pests, including but not limited to mammals,
15 birds, and aquatic life.

16 ➔Section 324. KRS 217.570 is amended to read as follows:

17 (1) (a) Except as provided by paragraph (b) of this subsection, every pesticide
18 distributed within the state or delivered for transportation or transported in
19 intrastate commerce or between points within the state through points outside
20 the state shall be registered with the department.

21 (b) Registration is not required if:

22 1. A pesticide is shipped from one (1) plant or warehouse to another plant
23 or warehouse operated by the same person and used solely at the plant or
24 warehouse as a constituent part to make a pesticide which is registered
25 under the provisions of KRS 217.542 to 217.630; or

26 2. If the pesticide is distributed under the provisions of an experimental use
27 permit issued under the provisions of KRS 217.542 to 217.630 or an

1 experimental use permit issued by EPA.

2 (c) All registrations shall expire on the thirty-first day of December of the
3 calendar year for which they were issued.

4 (2) The applicant for registration shall file with the department, a statement containing:

5 (a) The name and address of the applicant and the name and address of the person
6 whose name will appear on the label, if other than the applicant's;

7 (b) The name of the pesticide and its EPA registration number;

8 (c) A complete copy of the labeling accompanying the pesticide and a statement
9 of all claims made or to be made for it including directions for use and a
10 request that the pesticide be classified for nonrestricted use, for restricted use,
11 or for both as provided for in FIFRA. In the case of renewal of registration, a
12 statement shall be required only with respect to information which is different
13 from that furnished when the pesticide was registered or last reregistered,
14 unless the department requests a copy of the labeling; and

15 (d) Other necessary information as specified by the department on the application
16 for registration form.

17 (3) The department may require a full description of the tests made and results of the
18 tests upon which the claims are based on any pesticide not registered in accordance
19 with Section 3 of FIFRA, or on any pesticide on which restrictions are being
20 considered.

21 (4) (a) The applicant desiring to register a pesticide in this state shall make
22 application on forms furnished by the department, and, for the purposes
23 identified in paragraph (b) of this subsection, shall pay to the department an
24 annual fee of two hundred fifty dollars (\$250) for each and every brand or
25 grade to be offered for sale in this state. There shall be issued to the registrant
26 by the department a license entitling the registrant to sell all duly registered
27 brands in this state until the expiration of the license.

- 1 (b) The annual fees received by the department shall be used to fund:
- 2 1. The Kentucky Agriculture and Environment in the Classroom program,
- 3 a program administered by the department;
- 4 2. The farm chemical and container disposal program, a program
- 5 administered by the department;
- 6 3. The cost-sharing program through the department and the Energy and
- 7 Environment~~[Environmental and Public Protection]~~ Cabinet, Division
- 8 of Conservation, for the use of farmers in implementing agricultural
- 9 production practices that protect the quality of soil and water resources;
- 10 and
- 11 4. Expenses incurred in the enforcement of KRS 217.542 to 217.630.
- 12 (5) The department, when necessary in the administration of KRS 217.542 to 247.630,
- 13 may require the submission of the complete formula of any pesticide, including the
- 14 active and inert ingredients.
- 15 (6) The department may refuse to register, or to cancel the registration of, any brand of
- 16 pesticide upon satisfactory proof that the registrant has been guilty of fraudulent and
- 17 deceptive practices in evasions or attempted evasions of the provisions of KRS
- 18 217.542 to 217.630 or any administrative regulations promulgated under KRS
- 19 217.542 to 217.630. No registration shall be revoked or refused until the registrant
- 20 has been given a hearing by the department.
- 21 (7) Registrants desiring to renew registrations shall file with the department an
- 22 application for renewal prior to January 1. Any registration in effect on the thirty-
- 23 first day of December and for which a renewal application has been made and the
- 24 proper fee paid shall continue in full force and effect until the department has
- 25 notified the applicant that the registration has been renewed, or denied.
- 26 (8) If the renewal of a pesticide registration is not filed prior to January 15 of any year,
- 27 or if a new product is sold or offered for sale prior to registration, an additional fee

1 of ten dollars (\$10) shall be assessed and added to the original fee before the
 2 registration of that pesticide is renewed or a new registration is accepted. The
 3 additional fee shall not apply if the applicant furnishes an affidavit certifying that he
 4 did not distribute any unregistered pesticides during the period of nonregistration.
 5 The payment of the additional fee is not a bar to any prosecution for doing business
 6 without proper registry.

7 (9) Upon certification by the administrator of EPA to register pesticides in accordance
 8 with Section 24(c) of FIFRA, the department may register the pesticides if it
 9 determines that:

10 (a) Its composition warrants the proposed claims for it;

11 (b) Its labeling and other material required to be submitted meet with the
 12 requirements of KRS 217.542 to 217.630;

13 (c) It will perform its intended function, and when used in accordance with
 14 widespread and commonly recognized practice, will not cause unreasonable
 15 adverse effects on the environment; and

16 (d) The registration is not disapproved by the administrator of EPA.

17 ➔Section 325. KRS 219.041 is amended to read as follows:

18 (1) The secretary shall adopt regulations for the effective administration and
 19 enforcement of KRS 219.011 to 219.081.

20 (2) The secretary shall adopt a state hotel code which shall include, among other things,
 21 requirements for the issuance, suspension, and revocation of permits to operate;
 22 submission of plans for construction and equipment layout; plumbing; lighting;
 23 ventilation; water supply; sewage disposal; sanitary standards for operation; and
 24 such other matters deemed necessary to insure a safe and sanitary operation of a
 25 hotel. Standards for construction, plumbing, lighting, and ventilation shall be
 26 effective only if they are approved by the Board of Housing, Buildings and
 27 Construction and are included in the Uniform State Building Code, or if they

1 conform to the State Plumbing Code in the case of plumbing fixtures. Any review
 2 of plans for construction, plumbing, lighting, and ventilation required before
 3 construction of a hotel shall be conducted by the Department~~{Office}~~ of Housing,
 4 Buildings and Construction.

5 ➔Section 326. KRS 219.051 is amended to read as follows:

6 The state fire marshal or his duly authorized agents or representatives shall administer
 7 and enforce all state fire regulations, laws, standards of safety, and regulations adopted by
 8 the commissioner~~{executive-director}~~ of housing, buildings and construction relating to
 9 hotels and food service establishments.

10 ➔Section 327. KRS 219.350 is amended to read as follows:

11 No community shall be constructed or altered without a permit as provided in KRS
 12 219.310 to 219.410. An application for a permit to construct or alter a community shall be
 13 made to the cabinet upon forms provided by it. The application shall include plans for
 14 construction or alteration of the community and shall contain such information in regard
 15 to the proposed community as the cabinet may reasonably require, which may include
 16 affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410
 17 and regulations adopted by the secretary. All plans for the construction, installation, or
 18 alteration of buildings shall be forwarded by the cabinet to the Department~~{Office}~~ of
 19 Housing, Buildings and Construction. Only the Department~~{Office}~~ of Housing,
 20 Buildings and Construction shall review such plans for conformance with the Uniform
 21 State Building Code. The Department~~{Office}~~ of Housing, Buildings and Construction
 22 shall expedite the review of such plans and return them to the Cabinet for Health and
 23 Family Services for completion of the application process. Each application for a permit
 24 to construct or alter a community shall be accompanied by a permit fee of forty-seven
 25 dollars (\$47). The cabinet may, by administrative regulation, increase this fee by no more
 26 than five percent (5%) per year, not to exceed a maximum fee of seventy dollars (\$70).
 27 Each permit to construct shall be issued only for the person and premises, including the

number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one (1) year from date of issuance.

→Section 328. KRS 219.390 is amended to read as follows:

(1) For the purpose of assisting in the developing and review of standards and regulations for the administration of KRS 219.310 to 219.410, there is hereby created a State Advisory Committee on Manufactured, Mobile Home, and Recreational Vehicle Communities. The committee shall be composed of twelve (12) members. The secretary for health and family services or his designee shall be an ex officio member. The other members shall be appointed by the secretary for health and family services, three (3) of whom shall represent manufactured and mobile home community owners, two (2) of whom shall represent manufactured and mobile home dealers, two (2) of whom shall represent recreational vehicle dealers or community owners, two (2) of whom shall represent local health departments, one (1) of whom shall represent the ~~Office of the~~ state fire marshal, and one (1) member who shall be a citizen at large.

(2) All appointed members shall serve for a term of four (4) years except that, of the original appointees, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, two (2) shall serve for three (3) years, and two (2) shall serve for four (4) years. All vacancies shall be filled in the manner of original appointment for the unexpired portion of the term only.

(3) Members of the committee shall receive no compensation for their services, but may be reimbursed for necessary travel expenses.

→Section 329. KRS 220.020 is amended to read as follows:

The secretary of the **Energy and Environment** ~~Environmental and Public Protection~~ Cabinet shall, in addition to his other duties, act as commissioner of sanitation districts, and is vested with jurisdiction, power and authority, when the conditions set forth in KRS 220.010 to 220.520 and certified to by the county board of health are found to exist, to

1 establish sanitation districts within any county of the Commonwealth.

2 ➔Section 330. KRS 220.135 is amended to read as follows:

3 (1) Notwithstanding the provisions of KRS 220.080, the jurisdictional boundaries of a
4 sanitation district organized or operating under KRS Chapter 220 shall be
5 coextensive with the jurisdictional boundaries of the counties it was organized to
6 serve if the district was organized to serve two (2) or more counties, and no other
7 district has been organized to serve the counties. All cities of the second through
8 sixth class located in a county which is part of a sanitation district as described in
9 this section shall be included in the jurisdictional boundaries of the sanitation
10 district.

11 (2) (a) Effective July 1, 1995, the operational sewer and drainage system of each city
12 located within the jurisdictional boundaries of the district, together with all
13 assets, other than cash accounts, and liabilities of the system, as of January 1,
14 1994, including but not limited to, sewers, easements, manholes, pumping
15 stations, force mains, and real property, shall become the property, personal
16 and real, of the sanitation district.

17 (b) If funds in a cash account are in escrow or otherwise contractually connected
18 to a certificate of indebtedness related to the sewer and drainage system, the
19 funds shall become the property of the district. If funds in a cash account are
20 derived from a sewer user fee or sanitation bill surcharge, the city may use
21 them to reduce its obligation to the district created by subsection (5)(a) of this
22 section, or the city may return the funds to the citizens. If the funds in a cash
23 account were generated from a general fund source and are not in escrow or
24 otherwise obligated, the city may retain the funds for its own purposes.

25 (3) Any city within the jurisdictional boundaries of the district may, before September
26 1, 1994, state by ordinance its intention not to become a part of the district. In this
27 case, the provisions of subsection (2) of this section shall not apply, and the city

1 shall retain ownership and control of and responsibility for its sewer and drainage
 2 system. The city shall be solely responsible for compliance with applicable
 3 regulations promulgated by the Energy and Environment~~Environmental and~~
 4 ~~Public Protection~~ Cabinet.

5 (4) Any municipal subdistrict established prior to July 15, 1994, shall be dissolved
 6 effective July 1, 1995, and the assets and liabilities of the subdistrict, as of January
 7 1, 1994, shall become the property, personal and real, of the sanitation district,
 8 unless the city, no later than September 1, 1994, provides by ordinance that the
 9 municipal subdistrict shall revert to the city. If the city provides for the reversion of
 10 the subdistrict to the city, the assets and liabilities of the subdistrict shall become
 11 the property, personal and real, of the city. The city shall be solely responsible
 12 thereafter for compliance with applicable regulations promulgated by the Energy
 13 and Environment~~Environmental and Public Protection~~ Cabinet.

14 (5) (a) When a municipal subdistrict is dissolved pursuant to subsection (4) of this
 15 section, or a city sewer and drainage system is transferred pursuant to
 16 subsection (2) of this section, and its assets are transferred to the district, the
 17 city, or municipal subdistrict, shall pay the district fifty percent (50%) of the
 18 cost of necessary repairs to its facilities as identified through the district's
 19 sanitary sewer inspection program. These costs shall be payable upon
 20 completion of the repairs identified by the district, and may be paid by lump
 21 sum or in installments over a period of time agreeable to the city or the
 22 municipal subdistrict and the district.

23 (b) A city may continue its sewer maintenance surcharge until the accumulated
 24 principal plus interest thereon is sufficient to pay the charges levied by the
 25 district pursuant to paragraph (a) of this subsection.

26 (c) Any county that joins the district after July 15, 1994, may levy sewer
 27 surcharges or other fees, which shall be added to the customers' district bill for

1 the purpose of enabling the county to pay pre-existing obligations to the
2 district.

3 (d) For a period of ten (10) years, the district may grant to each city or county a
4 credit for each new residential customer added which shall not exceed three
5 hundred dollars (\$300) against the debt created by subsection (5)(a) of this
6 section, or any other contractual liability pre-existing on June 30, 1994. The
7 district may adopt a general policy establishing a credit of a different amount
8 for each new nonresidential customer added.

9 (6) (a) After July 15, 1994, no new package sewage treatment plant shall be
10 constructed or begin operation within the jurisdictional boundaries of the
11 district unless the district, after review of the plans for construction and
12 operation of the plant, approves the plans.

13 (b) After January 1, 1995, no privately owned package sewage treatment plant
14 shall operate within the jurisdictional boundaries of the district unless it has
15 been issued a permit by the district or by the Energy and
16 Environment~~[Environmental and Public Protection]~~ Cabinet.

17 (c) On or before January 1, 2000, the district shall assume ownership of all
18 publicly owned package sewage treatment plants within its jurisdictional
19 boundaries, including all assets and liabilities as of January 1, 1994, and all
20 property, real and personal.

21 (d) The district shall plan for, and when economically feasible, transfer the
22 function of sewage treatment from package plants to central treatment
23 facilities.

24 (7) (a) Effective July 1, 1995, the district shall be responsible for the planning,
25 construction, improvement, operation, and maintenance of all sewer and
26 drainage facilities under its ownership, including combined sewer overflows,
27 and for compliance with all applicable regulations promulgated by the Energy

1 **and Environment**~~[Environmental and Public Protection]~~ Cabinet.

2 (b) The district shall establish uniform rates for its services throughout its
3 jurisdiction, and district rates shall vary only on the basis of consumption.

4 ➔Section 331. KRS 220.240 is amended to read as follows:

5 Upon the completion of the plan the board of directors shall submit it to the **Energy and**
6 **Environment**~~[Environmental and Public Protection]~~ Cabinet for approval. If the **Energy**
7 **and Environment**~~[Environmental and Public Protection]~~ Cabinet refers the plan back for
8 amendment, the board of directors shall prepare and submit an amended plan. If the
9 **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet rejects the plan,
10 the board of directors shall proceed as provided in KRS 220.220 to prepare another plan.
11 If the **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet approves
12 the plan, a copy of the action of the **Energy and Environment**~~[Environmental and Public~~
13 ~~Protection]~~ Cabinet shall be filed with the secretary of the board of directors and by him
14 incorporated into the records of the district.

15 ➔Section 332. KRS 220.260 is amended to read as follows:

16 After the establishment of the district and the organization of the board of directors, no
17 person or public corporation shall install within the district any laterals, trunk lines,
18 interceptors for the collection or discharge of sewage or other liquid waste, treatment or
19 disposal works, until the plans therefor have been submitted to and approved by the board
20 of directors of the district and the **Energy and Environment**~~[Environmental and Public~~
21 ~~Protection]~~ Cabinet. Any installation contrary to the provisions of this section shall
22 constitute a nuisance and shall be abated by injunction upon proper application by anyone
23 aggrieved, including the district, the commissioner, or the **Energy and**
24 **Environment**~~[Environmental and Public Protection]~~ Cabinet.

25 ➔Section 333. KRS 220.320 is amended to read as follows:

26 Where necessary in order to secure the best results from the construction, operation and
27 maintenance of the works and improvements of the district or construction subdistricts

1 and to prevent their damage from misuse, the board of directors may make and enforce
 2 regulations pertaining to the use by persons and public corporations of the works and
 3 improvements of the district or construction subdistricts. Such regulations may prescribe
 4 the design, construction and use of sewers within the district or construction subdistricts
 5 and the manner in which connections to laterals, trunk sewers, intercepting sewers and to
 6 other works of the district or construction subdistricts shall be made, may prevent the
 7 unnecessary pollution of any watercourse or supply within the district or construction
 8 subdistricts and may prohibit the discharge into such sewers of any wastes deemed
 9 detrimental to the works and improvements of the district or construction subdistricts.
 10 Such regulations shall have no effect until approved by the Energy and
 11 Environment~~[Environmental and Public Protection]~~ Cabinet. The board may recover by
 12 civil action from any person or public corporation violating such regulations, a sum not
 13 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for
 14 each offense, together with costs. The directors may enforce by mandamus or otherwise
 15 all necessary and authorized regulations made by them, and may remove any improper
 16 construction or close any connections made improperly or in violation of the regulations.
 17 Any person or public corporation willfully failing to comply with the regulations shall be
 18 liable for damages caused by such failure and for the cost of renewing any construction
 19 damaged or destroyed.

20 ➔Section 334. KRS 220.510 is amended to read as follows:

21 (1) The board of directors shall, by resolution, determine the rates and compensation or
 22 rentals to be charged for the use of the sanitary works. The board of directors may
 23 provide for a sewer service charge to be imposed and collected, beginning at the
 24 time the plan for the improvement has been approved by the Energy and
 25 Environment~~[Environmental and Public Protection]~~ Cabinet and work is begun on
 26 plans and specifications for the improvement. The rates shall at all times be
 27 reasonable, taking into account the cost of the works, the cost of operation and

1 maintenance, and the amount necessary for the amortization of the bonds issued to
2 finance the works. The same schedule of rates and charges shall apply to all users of
3 the same class. The rates shall be binding upon all users of the system. The board
4 may alter and revise the rates in its discretion. In case of failure of any user to pay
5 for services rendered, the board may compel payment and may enjoin further use
6 until the payment is made, or it may institute an action in any court having
7 jurisdiction for the recovery of charges for services rendered, or the board may, by a
8 notice in writing, signed by its chairman or any member of said board, notify the
9 municipality, or person, firm, or corporation, which furnishes water to the user's
10 premises, to shut off the water service to said user's premises, until such time as all
11 delinquent charges, plus a reasonable charge for turning off and on the water
12 service, against said user, are paid in full. Upon receipt of such notice in writing, the
13 municipality, or the person, firm, or corporation, which furnishes water to the said
14 user's premises shall immediately shut off and discontinue the water service to the
15 said user's premises. Upon full payment of such account, plus a reasonable charge
16 for turning off and on the water service, the chairman, or any member of said board,
17 shall notify the said municipality, person, firm, or corporation, which furnishes
18 water to said user, that the account is paid in full, including such reasonable charge
19 for turning off and on the water service, and that the said water service can again be
20 provided to said user's premises. The board of directors shall promptly pay to such
21 municipality, person, firm, or corporation, such fee or charge collected for turning
22 off and on such water service. The board may enter into contracts with public
23 corporations or other large users of sewer services. The board may provide by
24 resolution any provisions and stipulations it deems necessary for the administration
25 of the revenue of the district, and for the security of the bondholders.

26 (2) No moneys received on account of the existence or operation of construction
27 subdistricts shall be used for the payment of district obligations, and no other

1 moneys received by the district shall be used for the payment of construction
 2 subdistrict bonds or obligations. Except as provided in the preceding sentence the
 3 use of all moneys of the district received from any and all sources is hereby limited
 4 exclusively and shall be devoted solely to the payment of all obligations of the
 5 district and board created by KRS 220.010 to 220.540, and no funds from any
 6 sources authorized by KRS 220.010 to 220.540 shall be diverted to any other
 7 purposes than those in KRS 220.010 to 220.540 set forth, except that the district
 8 shall pay from district area revenues an equitably allocable share of the cost of
 9 constructing and operating any nondistrict area facilities to which sewage from the
 10 district area is diverted in order to relieve district facilities from excessive sewage
 11 and costs described in KRS 220.561 but otherwise paid for.

12 ➔Section 335. KRS 221.030 is amended to read as follows:

- 13 (1) The cabinet, through its secretary or his or her authorized agents, shall have the
 14 authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.
- 15 (2) The secretary may promulgate and enforce administrative regulations deemed
 16 necessary to carry into effect the full intent and meaning of KRS 221.010 to
 17 221.100. Construction standards for buildings used as frozen food locker plants
 18 shall be effective only if approved by the Board of Housing, Buildings and
 19 Construction and included in the Uniform State Building Code. Any construction
 20 plan reviews for such buildings required prior to approval for construction shall be
 21 conducted by the Department~~[Office]~~ of Housing, Buildings and Construction.
- 22 (3) In any administrative hearing conducted under KRS 221.010 to 221.100, the
 23 provisions of KRS Chapter 13B shall be followed.

24 ➔Section 336. KRS 223.160 is amended to read as follows:

- 25 (1) It is the intent of KRS 223.160 to 223.220 and 223.991 that every operator in
 26 responsible charge of a water treatment plant or water distribution system be
 27 required to hold a valid and effective certificate of competency issued by the

1 **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet in a class
 2 equal to or higher than the class of the particular treatment plant or distribution
 3 system where he is currently employed in order to protect the public health.
 4 Operators other than those in responsible charge of such facilities shall also be
 5 eligible to apply for certification.

- 6 (2) An operator of a water treatment facility for a school and for a semipublic water
 7 supply shall be entitled to a limited certificate of competency for his particular
 8 facility provided he has demonstrated that he has the knowledge and experience
 9 required to operate properly the particular water treatment facility for which he is
 10 responsible. A limited certificate of competency so issued is not transferable to any
 11 other water treatment facility, nor is the period of operation under such a limited
 12 certificate eligible for consideration toward the experience requirements for a
 13 certificate of competency as provided in subsection (1) of this section.

14 ➔Section 337. KRS 223.170 is amended to read as follows:

15 The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet shall
 16 certify persons as to their qualifications to supervise successfully the operation of water
 17 treatment plants or water distribution systems after considering the recommendations of a
 18 board of certification which shall be appointed by the secretary of the **Energy and**
 19 **Environment**~~[Environmental and Public Protection]~~ Cabinet or his designee. The board
 20 shall consist of the following: two (2) members who are currently employed as
 21 waterworks operators holding valid certificates; one (1) member employed by a
 22 municipality who holds the position of either city manager, city engineer, director of
 23 public works, or the equivalent thereof; one (1) member who is a faculty member of a
 24 college, university, or professional school whose major field is related to water supply;
 25 and one (1) ex officio member representing the **Energy and Environment**~~[Environmental~~
 26 ~~and Public Protection]~~ Cabinet. Board members shall serve for a four (4) year term or
 27 until their successors are appointed and qualify. The **Energy and**

1 **Environment**~~[Environmental and Public Protection]~~ Cabinet representative shall serve as
 2 executive secretary and treasurer of the board and be responsible for maintaining records.
 3 The members of the board shall serve without compensation, but may be reimbursed for
 4 all actual and necessary expenses incurred while discharging their official duties.

5 ➔Section 338. KRS 223.180 is amended to read as follows:

6 The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet shall
 7 classify all water treatment plants and water distribution systems with due regard to size,
 8 type, physical conditions affecting such treatment plants and distribution systems, and
 9 according to the skill, knowledge and experience that the operator must have to supervise
 10 successfully the operation of such water treatment plants and water distribution systems
 11 so as to protect the public health.

12 ➔Section 339. KRS 223.190 is amended to read as follows:

13 All water treatment plants and water distribution systems, whether publicly or privately
 14 owned, shall be under the supervision of an operator whose competency is certified to by
 15 the **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet in a grade
 16 corresponding to the classification of the water supply system to be supervised. All
 17 operators holding valid and effective certificates issued under existing regulations of the
 18 State Board of Health on June 16, 1966, may, within the discretion of the **Energy and**
 19 **Environment**~~[Environmental and Public Protection]~~ Cabinet, be issued new certificates
 20 without examination for any appropriate new classifications that may be established by
 21 the regulations adopted hereunder or such certificates may be continued in effect.

22 ➔Section 340. KRS 223.200 is amended to read as follows:

23 The secretary of the **Energy and Environment**~~[Environmental and Public Protection]~~
 24 Cabinet, with the advice of the board of certification, shall adopt rules and regulations as
 25 are reasonably necessary to carry out the intent of KRS 223.160 to 223.220 and 223.991.
 26 The rules and regulations may include, but are not limited to, provisions establishing
 27 standards for classification of water treatment plants and water distribution systems,

provisions establishing qualifications of applicants and procedures for examination of candidates, membership, and duties of the board of certification, provisions relating to the renewal, cancellation or revocation of certificates, including the specifications of the grounds therefor, and such other provisions as are necessary for the administration of KRS 223.160 to 223.220 and 223.991.

→Section 341. KRS 223.210 is amended to read as follows:

It shall be unlawful for any person, firm, or corporation (municipal or private) to operate a water treatment plant or water distribution system unless the competency of the operator who is in direct responsible charge is duly certified to by the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet under the provisions of KRS 223.160 to 223.220 and 223.991. It shall be unlawful for any person to perform the duties of an operator, in direct responsible charge, without being duly certified under the provisions of KRS 223.160 to 223.220 and 223.991. The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet may, however, issue provisional certificates for emergency situations.

→Section 342. KRS 223.220 is amended to read as follows:

The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet is authorized to fix a reasonable schedule of fees and charges by regulation to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet under the provisions of KRS 223.160 to 223.220 and 223.991 or the rules and regulations of the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet in carrying out the provisions of KRS 223.160 to 223.220 and 223.991.

→Section 343. KRS 223.400 is amended to read as follows:

As used in KRS 223.405 to 223.460, unless the context requires otherwise:

- 1 (1) "Alteration or repair of a water well" means any maintenance, addition, or change of
- 2 well or pitless adapter, but does not include replacement or repair of a water pump
- 3 or associated piping.
- 4 (2) "Board" means the Kentucky Water Well Certification Board;
- 5 (3) "Cabinet" means the Energy and Environment~~Environmental and Public~~
- 6 ~~Protection~~} Cabinet;
- 7 (4) "Certificate" means a certificate of competency issued by the secretary stating that
- 8 the water well driller has met all the requirements for the appropriate classification
- 9 set forth in KRS 223.405 to 223.460 or by regulation;
- 10 (5) "Person" means an individual, corporation, partnership, association, municipality,
- 11 state and federal government, or other public body or other legal entity, or any
- 12 officer, employee, or agent of any of the foregoing.
- 13 (6) "Secretary" means the secretary of the Energy and Environment~~Environmental~~
- 14 ~~and Public Protection~~} Cabinet;
- 15 (7) "Water well" or "well" means any excavation or opening in the surface of the earth
- 16 that is drilled, cored, bored, washed, driven, jetted, or otherwise constructed when
- 17 the actual or intended use in whole or part of an excavation is the removal of water
- 18 for any purpose, including but not limited to culinary and household purposes,
- 19 animal consumption, food manufacture, use of geothermal resources for domestic
- 20 heating purposes and industrial, irrigation, and dewatering purposes, but not
- 21 including wells to be used for watering stock or for general farmstead use if the
- 22 wells do not provide water for human consumption;
- 23 (8) "Water well driller" means a person who is qualified to engage in the drilling,
- 24 alteration, or repair of a water well as defined in this chapter.

25 ➔Section 344. KRS 224.01-010 is amended to read as follows:

26 As used in this chapter unless the context clearly indicates otherwise:

- 27 (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other

1 particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or
2 any combination thereof;

3 (2) "Air contaminant source" means any and all sources of emission of air
4 contaminants, whether privately or publicly owned or operated. Without limiting
5 the generality of the foregoing, this term includes all types of business, commercial
6 and industrial plants, works, shops, and stores, and heating and power plants and
7 stations, buildings and other structures of all types, including single and multiple
8 family residences, apartments, houses, office buildings, public buildings, hotels,
9 restaurants, schools, hospitals, churches, and other institutional buildings,
10 automobiles, trucks, tractors, buses and other motor vehicles, garages and vending
11 and service locations and stations, railroad locomotives, ships, boats and other
12 waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor
13 and outdoor), refuse dumps and piles, and all stack and other chimney outlets from
14 any of the foregoing;

15 (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air
16 contaminants in sufficient quantities and of such characteristics and duration as is or
17 threatens to be injurious to human, plant, or animal life, or to property, or which
18 unreasonably interferes with the comfortable enjoyment of life or property;

19 (4) "Closure" means the time at which a waste treatment, storage, or disposal facility
20 permanently ceases to accept wastes, and includes those actions taken by the owner
21 or operator of the facility to prepare the site for post-closure monitoring and
22 maintenance or to make it suitable for other uses;

23 (5) "Commission" means the Environmental Quality Commission;

24 (6) "Compost" means solid waste which has undergone biological decomposition of
25 organic matter, been disinfected using composting or similar technologies, been
26 stabilized to a degree which is potentially beneficial to plant growth and which is
27 approved for use or sale as a soil amendment, artificial topsoil, growing medium

1 amendment, or other similar uses;

2 (7) "Composting" means the process by which biological decomposition of organic
3 solid waste is carried out under controlled aerobic conditions, and which stabilizes
4 the organic fraction into a material which can easily and safely be stored, handled,
5 and used in an environmentally acceptable manner:

6 (a) "Composting" may include a process which creates an anaerobic zone within
7 the composting material;

8 (b) "Composting" does not include simple exposure of solid waste under
9 uncontrolled conditions resulting in natural decay;

10 (8) "Demonstration" means the initial exhibition of a new technology, process or
11 practice or a significantly new combination or use of technologies, processes or
12 practices, subsequent to the development stage, for the purpose of proving
13 technological feasibility and cost effectiveness;

14 (9) "Cabinet" means the Energy and Environment~~Environmental and Public~~
15 ~~Protection~~ Cabinet;

16 (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or
17 placing of any waste into or on any land or water so that such waste or any
18 constituent thereof may enter the environment or be emitted into the air or
19 discharged into any waters, including ground waters;

20 (11) "District" means an air pollution control district as provided for in KRS Chapter 77;

21 (12) "Effluent limitations" means any restrictions or prohibitions established under state
22 law which include, but are not limited to, effluent limitations, standards of
23 performance for new sources, and toxic effluent standards on quantities, rates, and
24 concentrations of chemical, physical, biological, and other constituents which are
25 discharged into waters;

26 (13) "Generator" means any person, by site, whose act or process produces waste;

27 (14) "Materials recovery facility" means a solid waste management facility that provides

1 for the extraction from solid waste of recyclable materials, materials suitable for use
2 as a fuel or soil amendment, or any combination of those materials;

3 (15) "Municipal solid waste disposal facility" means any type of waste site or facility
4 where the final deposition of any amount of municipal solid waste occurs, whether
5 or not mixed with or including other waste allowed under Subtitle D of the Federal
6 Resource Conservation and Recovery Act of 1976, as amended, and includes, but is
7 not limited to, incinerators and waste-to-energy facilities that burn municipal solid
8 waste, and contained and residential landfills, but does not include a waste site or
9 facility which is operated exclusively by a solid waste generator on property owned
10 by the solid waste generator which accepts only industrial solid waste from the solid
11 waste generator or industrial solid waste generated at another facility owned and
12 operated by the generator or wholly-owned subsidiary, or a medical waste
13 incinerator which is owned, operated, and located on the property of a hospital or
14 university which is regulated by the cabinet and used for the purpose of treatment,
15 prior to landfill, of medical waste received from the generator exclusively or in
16 combination with medical waste generated by professionals or facilities licensed or
17 regulated or operated by the Commonwealth;

18 (16) "Municipal solid waste reduction" means source reduction, waste minimization,
19 reuse, recycling, composting, and materials recovery;

20 (17) "Person" means an individual, trust, firm, joint stock company, corporation
21 (including a government corporation), partnership, association, federal agency, state
22 agency, city, commission, political subdivision of the Commonwealth, or any
23 interstate body;

24 (18) "Post-closure monitoring and maintenance" means the routine care, maintenance,
25 and monitoring of a solid waste or hazardous waste treatment, storage, or disposal
26 facility following closure of the facility;

27 (19) "Publicly owned treatment works" means any device or system used in the treatment

1 (including recycling and recovery) of municipal sewage or industrial wastes of a
2 liquid nature which is owned by the Commonwealth or a political subdivision of the
3 Commonwealth;

4 (20) "Recovered material" means those materials, including but not limited to compost,
5 which have known current use, reuse, or recycling potential, which can be feasibly
6 used, reused, or recycled, and which have been diverted or removed from the solid
7 waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent
8 separation and processing, but does not include materials diverted or removed for
9 purposes of energy recovery or combustion except refuse-derived fuel (RDF), which
10 shall be credited as a recovered material in an amount equal to that percentage of
11 the municipal solid waste received on a daily basis at the processing facility and
12 processed into RDF; but not to exceed fifteen percent (15%) of the total amount of
13 the municipal solid waste received at the processing facility on a daily basis.
14 Notwithstanding any provision of law to the contrary, tire-derived fuel, as defined in
15 subsection (54) of this section, shall be considered a recovered material;

16 (21) "Recovered material processing facility" means a facility engaged solely in the
17 storage, processing, and resale or reuse of recovered material, but does not mean a
18 solid waste management facility if solid waste generated by a recovered material
19 processing facility is managed pursuant to this chapter and administrative
20 regulations adopted by the cabinet;

21 (22) "Recycling" means any process by which materials which would otherwise become
22 solid waste are collected, separated, or processed and reused or returned to use in
23 the form of raw materials or products, including refuse-derived fuel when processed
24 in accordance with administrative regulations established by the cabinet, but does
25 not include the incineration or combustion of materials for the recovery of energy;

26 (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the
27 extensive separation of municipal solid waste, which includes the extraction of

1 recoverable materials for recycling and the removal of nonprocessables such as dirt
 2 and gravel prior to processing the balance of the municipal solid waste into the
 3 refuse-derived fuel product;

4 (24) "Secretary" means the secretary of the Energy and Environment~~Environmental~~
 5 ~~and Public Protection~~ Cabinet;

6 (25) "Sewage system" means individually or collectively those constructions or devices
 7 used for collecting, pumping, treating, and disposing of liquid or waterborne
 8 sewage, industrial wastes, or other wastes;

9 (26) "Termination" means the final actions taken by the cabinet as to a solid waste or
 10 hazardous waste treatment, storage, or disposal facility when formal responsibilities
 11 for post-closure monitoring and maintenance cease;

12 (27) "Waste site or facility" means any place where waste is managed, processed, or
 13 disposed of by incineration, landfilling, or any other method, but does not include a
 14 container located on property where solid waste is generated and which is used
 15 solely for the purpose of collection and temporary storage of that solid waste prior
 16 to off-site disposal, or a recovered material processing facility, or the combustion of
 17 processed waste in a utility boiler;

18 (28) "Storage" means the containment of wastes, either on a temporary basis or for a
 19 period of years, in such a manner as not to constitute disposal of such wastes;

20 (29) "Transportation" means any off-site movement of waste by any mode, and any
 21 loading, unloading, or storage incidental thereto;

22 (30) "Treatment" means any method, technique, or process, including neutralization,
 23 designed to change the physical, chemical, or biological character or composition of
 24 any waste so as to neutralize such waste or so as to render such waste
 25 nonhazardous, safer for transport, amenable for recovery, amenable for storage, or
 26 reduced in volume. Such term includes any activity or processing designed to
 27 change the physical form or chemical composition of hazardous waste so as to

1 render it nonhazardous;

2 (31) "Waste" means:

3 (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material,
4 including solid, liquid, semi-solid, or contained gaseous material resulting
5 from industrial, commercial, mining (excluding coal mining wastes, coal
6 mining by-products, refuse, and overburden), agricultural operations, and from
7 community activities, but does not include those materials including, but not
8 limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a
9 public road construction project funded wholly or in part with state funds,
10 recovered material, tire-derived fuel, special wastes as designated by KRS
11 224.50-760, solid or dissolved material in domestic sewage, manure, crops,
12 crop residue, or a combination thereof which are placed on the soil for return
13 to the soil as fertilizers or soil conditioners, or solid or dissolved material in
14 irrigation return flows or industrial discharges which are point sources subject
15 to permits under Section 402 of the Federal Water Pollution Control Act, as
16 amended (86 Stat. 880), or source, special nuclear, or by-product material as
17 defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

18 1. "Household solid waste" means solid waste, including garbage and trash
19 generated by single and multiple family residences, hotels, motels,
20 bunkhouses, ranger stations, crew quarters, and recreational areas such
21 as picnic areas, parks, and campgrounds, but it does not include tire-
22 derived fuel;

23 2. "Commercial solid waste" means all types of solid waste generated by
24 stores, offices, restaurants, warehouses, and other service and
25 nonmanufacturing activities, excluding tire-derived fuel and household
26 and industrial solid waste;

27 3. "Industrial solid waste" means solid waste generated by manufacturing

or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products, except tire-derived fuel; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated

1 wholly or partly within or bordering upon the Commonwealth or within its
2 jurisdiction;

3 (34) "Water pollution" means the alteration of the physical, thermal, chemical,
4 biological, or radioactive properties of the waters of the Commonwealth in such a
5 manner, condition, or quantity that will be detrimental to the public health or
6 welfare, to animal or aquatic life or marine life, to the use of such waters as present
7 or future sources of public water supply or to the use of such waters for recreational,
8 commercial, industrial, agricultural, or other legitimate purposes;

9 (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue,
10 sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat,
11 wrecked or discarded equipment, rock, sand, soil, industrial, municipal or
12 agricultural waste, and any substance resulting from the development, processing,
13 or recovery of any natural resource which may be discharged into water;

14 (36) "NPDES" means National Pollutant Discharge Elimination System;

15 (37) "Manifest" means the form used for identifying the quantity, composition, and the
16 origin, routing, and destination of waste during its transportation from the point of
17 generation to the point of disposal, treatment, or storage;

18 (38) "Open dump" means any facility or site for the disposal of solid waste which does
19 not have a valid permit issued by the cabinet or does not meet the environmental
20 performance standards established under regulations promulgated by the cabinet;

21 (39) "Solid waste management" means the administration of solid waste activities:
22 collection, storage, transportation, transfer, processing, treatment, and disposal,
23 which shall be in accordance with a cabinet-approved county or multicounty solid
24 waste management plan;

25 (40) "Solid waste management area" or "area" means any geographical area established
26 or designated by the cabinet in accordance with the provisions of this chapter;

27 (41) "Solid waste management facility" means any facility for collection, storage,

1 transportation, transfer, processing, treatment, or disposal of solid waste, whether
2 such facility is associated with facilities generating such wastes or otherwise, but
3 does not include a container located on property where solid waste is generated and
4 which is used solely for the purpose of collection and temporary storage of that
5 solid waste prior to off-site disposal, or a recovered material processing facility
6 which is subject to regulation pursuant to the chapter for control of environmental
7 impacts and to prevent any public nuisance;

8 (42) "Hazardous constituent" shall conform to the requirements of the Resource
9 Conservation and Recovery Act (RCRA), as amended;

10 (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a
11 landfill, surface impoundment, waste pile, injection well, land treatment facility,
12 salt dome formation, salt bed formation, or underground mine or cave;

13 (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five
14 percent (5%) or more of stock or financial interest in a corporation, partnership, or
15 association or parent, subsidiary, or affiliate corporation and its officers, directors,
16 or shareholders of five percent (5%) or more of stock or financial interest;

17 (45) "Universal collection" means a municipal solid waste collection system which is
18 established by ordinance and approved by the cabinet and requires access for each
19 household or solid waste generator in a county. A commercial or industrial entity
20 which transports or contracts for the transport of the municipal solid waste it
21 generates or which operates a solid waste management facility for its exclusive use
22 may be excluded from participation;

23 (46) "Governing body" means a county, a waste management district, an entity created
24 pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the
25 provisions of KRS 65.180 to 65.192, a special district created pursuant to the
26 provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to
27 KRS 109.082;

- 1 (47) "Convenience center" means a facility that is manned during operating hours for the
2 collection and subsequent transportation of municipal solid wastes;
- 3 (48) "Transfer facility" means any transportation related facility including loading docks,
4 parking areas, and other similar areas where shipments of solid waste are held or
5 transferred during the normal course of transportation;
- 6 (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid
7 waste;
- 8 (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers
9 and weighing more than twenty-four and one-half (24 1/2) pounds, but less than
10 thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three
11 (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-
12 eight (28) inches in diameter and having a brightness of less than sixty (60);
- 13 (51) "Postconsumer waste paper" means discarded paper after it has served its intended
14 use by a publisher;
- 15 (52) "Publisher" means a person engaged in the business of publishing newspapers,
16 advertisement flyers, telephone books, and other printed material;
- 17 (53) "Recycled content" means the proportion of fiber in newsprint that is derived from
18 postconsumer waste paper;
- 19 (54) "Tire-derived fuel" or "TDF" means a product made from waste tires to the exact
20 specifications of a system designed to accept tire-derived fuel as a primary or
21 supplemental fuel source, that have been reduced to particle sizes not greater than
22 two (2) inches by two (2) inches and that is destined for transportation from the
23 waste tire processor for use as a fuel. "Tire-derived fuel" shall not mean refuse-
24 derived fuel; and
- 25 (55) "Industrial energy facility" means a facility that produces transportation fuels,
26 synthetic natural gas, chemicals, or electricity through a gasification process using
27 coal, coal waste, or biomass resources, and costing in excess of seven hundred fifty

1 million dollars (\$750,000,000) at the time of construction.

2 ➔Section 345. KRS 224.01-205 is amended to read as follows:

3 (1) The environmental trust fund may be used to support scientific, technical, or
4 environmental research needed to develop and guide environmental protection and
5 natural resource management policies. Research topics may include but shall not be
6 limited to air quality; water quality, including groundwater protection; water
7 resource management; environmental impacts of natural resource extractions,
8 including surface mining and oil and gas production; waste management, including
9 solid and hazardous waste; environmental impact of noise; soil conservation; and
10 forest resource management. Research activities may include collecting baseline
11 environmental data and studying environmental problems existing in or of concern
12 to the Commonwealth.

13 (2) The environmental trust fund may be used to finance research and development
14 projects that promote the use of innovative solutions to environmental problems
15 existing in or of concern to the Commonwealth. Research and development projects
16 shall have cosponsors who will cooperate in the gathering and sharing of research
17 data. Cosponsors may include but shall not be limited to local governments,
18 universities, state agencies, nonprofit organizations, and private persons.

19 (3) The environmental trust fund may be used to collect and disseminate information
20 derived from any activities conducted pursuant to KRS 224.01-200 to 224.01-220.

21 (4) The environmental trust fund may be used to support educational and training
22 programs relating to the protection of the environment.

23 (5) The board created in KRS 224.01-210 shall take into consideration state and federal
24 moneys available for projects prior to expending money in the environmental trust
25 fund.

26 (6) The environmental trust fund shall not be used to support or finance the routine day-
27 to-day activities and responsibilities of the Energy and

1 **Environment**~~[Environmental and Public Protection]~~ Cabinet.

2 ➔ Section 346. KRS 224.01-210 is amended to read as follows:

3 (1) The Environmental Board is established, which shall control and manage the
4 environmental trust fund. The board shall be composed of eight (8) members as
5 follows: the secretary of the **Energy and Environment**~~[Environmental and Public
6 Protection]~~ Cabinet, the chairman of the Environmental Quality Commission, and
7 six (6) members at large to be appointed by the Governor. The board members shall
8 elect the chairman.

9 (2) The six (6) members at large shall be appointed for terms of four (4) years. The
10 remaining members shall be permanent members. The six (6) members at large
11 shall be appointed from the following: two (2) from manufacturers, mineral
12 extraction industry, or agribusiness; two (2) from the state-supported university
13 system; one (1) from public health or environmental citizen groups; and one (1) an
14 educator specializing in environmental education. Vacancies in the members at
15 large appointments shall be filled in the same manner as originally appointed, and
16 appointments to fill these vacancies shall be for the remainder of the unexpired
17 term.

18 (3) The board shall meet at least once each calendar quarter or more often on the call of
19 the chairman.

20 (4) No member of the board shall receive any salary, fee, or other remuneration for
21 services as a member of the board but each member shall be reimbursed for travel
22 expenses incurred in the performance of duties as a board member.

23 (5) The secretary and the staff of the cabinet shall serve as staff for the board.

24 (6) The cabinet may provide legal representation to the board or the board may enter
25 into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

26 (7) Five (5) members of the board shall constitute a quorum for conducting business.
27 Each member shall have one (1) vote and a majority vote of the members present

1 shall control on all questions.

2 (8) The cabinet shall annually prepare a proposed program and a list of projects for
3 public comment and review for the board's consideration.

4 ➔Section 347. KRS 224.01-300 is amended to read as follows:

5 (1) For purposes of KRS 224.01-300 and 224.01-310 only, "pollution control facility"
6 shall mean and include:

7 (a) Any property designed, constructed, or installed as a component part of any
8 commercial or industrial premises for the primary purpose of eliminating or
9 reducing the emission of, or ground level concentration of, particulate matter,
10 dust, fumes, gas, mist, smoke, vapor, or odorous substances, or any
11 combination thereof which renders air harmful or inimical to the health of
12 persons or to property within this Commonwealth;

13 (b) Any disposal system or any treatment works, pretreatment works, appliance,
14 equipment, machinery, or installation constructed, used, or placed in operation
15 primarily for the purpose of reducing, controlling, or eliminating thermal
16 pollution or water pollution caused by industrial waste, or what would be
17 industrial waste, if discharged into the waters of the Commonwealth;

18 (c) Any disposal system or any appliance, equipment, machinery or installation
19 constructed, used or placed in operation primarily for disposing of waste,
20 converting waste into an item of real economic value or converting hazardous
21 waste to nonhazardous waste;

22 (d) Any property designed, constructed, or installed as a component part of any
23 commercial or industrial premises for the primary purpose of eliminating or
24 reducing the emission of sound which is harmful or inimical to the health of
25 persons or to property, or materially reduces the quality of the environment in
26 this Commonwealth;

27 (e) Any property designed, constructed, or installed for the primary purpose of

1 removing substances from raw materials, which substances, if permitted to
2 become a component part of the finished product, would have a deleterious
3 effect on the environment when the finished product was utilized.

4 (2) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting
5 from any process of industry, manufacture, trade, or business, or from the
6 development, processing, or recovery of any natural resource, together with such
7 sewage as is present, which pollutes the waters of the Commonwealth.

8 (3) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water
9 supply treatment plant, or air pollution control facility and other discarded material,
10 including solid, liquid, semi-solid, or contained gaseous material resulting from
11 industrial, commercial, mining (excluding coal mining waste), and agricultural
12 operations, and from community activities, but does not include solid or dissolved
13 material in domestic sewage, or solid or dissolved materials in irrigation return
14 flows or industrial discharges which are point sources subject to permits under
15 Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880),
16 or source, special nuclear, or by-product material as defined by the Atomic Energy
17 Act of 1954, as amended (68 Stat. 923).

18 (4) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station,
19 incinerator, or other works used for the purpose of treating, stabilizing, or holding
20 sewage, industrial waste, or other wastes.

21 (5) "Water pollution" shall mean the placing of any noxious or deleterious substances
22 in any waters of the Commonwealth which render such waters harmful or inimical
23 to aquatic life, or to the use of such waters for domestic water supply, or industrial
24 or agricultural purposes or for recreation.

25 (6) "Waters of the Commonwealth" means all streams, lakes, ponds, marshes,
26 watercourses, waterways, wells, springs, irrigation systems, drainage systems, and
27 all other bodies or accumulations of water, surface and underground, natural or

1 artificial, which are situated wholly or partly within, or border upon, this
 2 Commonwealth, or are within its jurisdiction, except those private waters which do
 3 not combine or effect a junction with natural surface or underground waters.

4 (7) "Cabinet" shall mean the Kentucky *Energy and Environment*~~Environmental and~~
 5 ~~Public Protection~~ Cabinet.

6 (8) "Pollution control tax exemption certificate" shall mean that certificate issued by the
 7 cabinet pursuant to KRS 224.01-310.

8 ➔Section 348. KRS 224.01-410 is amended to read as follows:

9 (1) The General Assembly finds that properties contaminated with hazardous chemical
 10 residues created by the manufacture of methamphetamine endanger innocent
 11 members of the public due to exposure to these residues where properties are not
 12 properly decontaminated prior to the subsequent rental, sale, or use of the
 13 properties. Remediation of properties has been frustrated by a lack of
 14 comprehensive standards and procedures for decontamination of properties found to
 15 have been involved with methamphetamine production. The purpose of this section
 16 where law enforcement has found evidence of the manufacture of
 17 methamphetamine is to protect the public health, safety, and welfare by providing
 18 specific cleanup standards and procedures.

19 (2) As used in this section, the following definitions shall apply:

20 (a) "Clandestine methamphetamine lab" means any inhabitable property used for
 21 the manufacture of methamphetamine as defined by KRS 218A.1431;

22 (b) "Contaminated property" means any inhabitable property that has been used to
 23 manufacture methamphetamine and has been assessed as containing
 24 methamphetamine contamination;

25 (c) "Decontamination standards" means standards used to determine that a
 26 contaminated property has become decontaminated;

27 (d) "Inhabitable property" means any building or structure and any related

1 curtilage, water, water system, or sewer system used as a clandestine
2 methamphetamine drug lab that is intended to be primarily occupied by
3 people, including a mobile home or an individual unit of a multifamily
4 housing unit, that may be sold, leased, or rented for any length of time.

5 "Inhabitable property" shall not include a hotel, as defined in KRS 219.011;

6 (e) "Surface material" means any porous or nonporous substance common to the
7 interior of a building or structure, including but not limited to ceilings and
8 walls, window coverings, floor and floor coverings, counters, furniture,
9 heating and cooling duct work, and any other surface to which inhabitants of
10 the building or structure may be exposed; and

11 (f) "Related hazardous material or hazardous waste" means any hazardous waste
12 as defined in this chapter or hazardous material as defined in KRS 174.405
13 that is related to the clandestine production of methamphetamine.

14 (3) (a) The cabinet shall promulgate administrative regulations providing for
15 decontamination standards for contaminated property, including:

- 16 1. Decontamination standards for methamphetamine and
17 methamphetamine precursors;
- 18 2. Decontamination standards for materials used in methamphetamine
19 production, including related hazardous material or hazardous waste;
20 and
- 21 3. Sampling and testing standards for contaminated properties with a tiered
22 response system for decontamination services.

23 (b) Absent administrative regulations described in this subsection, the
24 decontamination standard for methamphetamine inside inhabitable property is
25 less than or equal to one-tenth of one (0.1) microgram of methamphetamine
26 per one hundred (100) square centimeters of surface material.

27 (4) The Department of Kentucky State Police shall promulgate administrative

1 regulations establishing assessment procedures for determining if an inhabitable
2 property is a contaminated property.

3 (5) Upon a determination that an inhabitable property is a contaminated property under
4 subsection (4) of this section, the state or local law enforcement agency shall notify
5 the cabinet of its findings and results of assessment.

6 (6) (a) The cabinet shall promulgate administrative regulations to establish a
7 reasonable, appropriate, and protective tiered response system to address the
8 level of decontamination services required for a contaminated property based
9 upon the degree of methamphetamine production and the degree of potential
10 contamination resulting from methamphetamine production as indicated by
11 the results of assessment by responding state or local law enforcement.

12 (b) Tier 1 shall be for a transient contaminated property where the manufacturing
13 of methamphetamine with anhydrous ammonia was initiated but only limited
14 amounts of reagents or precursors are present and open, and where minimal
15 spill and staining may be observed.

16 (c) Tier 2 shall be for a transient contaminated property where the manufacturing
17 of methamphetamine with moderate activity or the use of red phosphorous is
18 evident but only limited amounts of methamphetamine, reagents, or
19 precursors were produced over a relatively short period of time, and where
20 spills and staining may be observed.

21 (d) Tier 3 shall be for an entrenched contaminated property where precursors and
22 reagent production has occurred over an extended period of time, from many
23 weeks to several months, and where spills, staining, and burn pits may be
24 observed. This tier designation shall be considered as the default tier
25 designation for homes and rental property with recurring methamphetamine
26 production.

27 (e) Tier 4 shall be for a mass production contaminated property where large

quantities, such as multiple pounds, of methamphetamine, reagents, or precursors are present, and where potentially severe environmental effects may be indicated because of the large quantities of drummed or buried waste is discovered. Due to the potential for significant releases of hazardous substances, pollutants, or contaminants, law enforcement agencies shall consult with the cabinet prior to making this tier recommendation.

(7) Any contaminated property, regardless of the initial level of methamphetamine contamination, shall meet the decontamination standard set forth in subsection (3) of this section and, regardless of the results of testing or assessment, shall require at least a Tier 1 cleanup response. A property owner shall certify to the cabinet that the property has been cleaned to the standard set forth in subsection (3) of this section.

(8) (a) Only contractors certified by the cabinet shall be authorized to conduct the decontamination services for inhabitable properties following the protocols of the tiered response system. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:

1. Register with the cabinet;
2. Post a surety bond or obtain other financial assurance, which shall include but is not limited to a corporate guarantee, financial test-based self-insurance, irrevocable letter of credit, or any combination of assurances, in the amount of one hundred thousand dollars (\$100,000) for a Tier 1, 2, or 3 cleanup and two hundred fifty thousand dollars (\$250,000) for a Tier 4 cleanup, which may be aggregated;
3. Provide a certificate issued by an insurance company licensed to do business in Kentucky, certifying that the contractor has a public liability insurance policy in an amount deemed sufficient by the cabinet for any personal or property damages that might occur to third parties arising

- 1 from the performance of decontamination services for inhabitable
2 properties by the contractor or his or her employees or agents;
- 3 4. Certify that decontamination will be performed safely and in accordance
4 with 803 KAR 2:403; and
- 5 5. Certify that each cleanup conducted meets the decontamination standard
6 required by subsection (3) of this section.
- 7 (b) Any contractor who is certified by the cabinet, and whose certification is in
8 good standing, prior to July 15, 2008, shall retain that certification without
9 having to be recertified.
- 10 (c) Upon registration, the cabinet shall either accept or deny the contractor's
11 certification. The cabinet may revoke the certification of any contractor for
12 cause and may collect the forfeited financial assurance of any contractor found
13 to be in violation of this section. Forfeited financial assurance may be used by
14 the cabinet to decontaminate inhabitable properties.
- 15 (d) The cabinet shall promulgate administrative regulations to establish standards
16 and procedures for contractor certification and to establish reasonable fees to
17 implement this section.
- 18 (9) When a state or local law enforcement agency investigates an inhabitable property
19 that it has reason to believe has been used as a clandestine methamphetamine drug
20 lab, the state or local law enforcement agency shall, at the request of the state or
21 local health department under its respective authority pursuant to KRS Chapter 211
22 or 212, post a methamphetamine contamination notice on each exterior door of the
23 inhabitable property, except that in the case of a multifamily housing unit, it shall
24 post the notice on each entrance door to the individual unit. The Department for
25 Public Health shall promulgate administrative regulations establishing the notice
26 requirements and the process for removing the notice from inhabitable properties.
27 Any homeowner listed on the deed of the dwelling may request an administrative

1 hearing pursuant to KRS Chapter 13B to determine whether the methamphetamine
 2 contamination notice is proper by filing a request for appeal with the Department
 3 for Public Health within thirty (30) days of the methamphetamine contamination
 4 notice having been posted on the property. The responding state or local law
 5 enforcement agency shall, within three (3) business days of when the notice is
 6 posted, report it by fax or e-mail to the local health department.

7 (10) Any owner of contaminated property who leases, rents, or sells contaminated
 8 property upon which a methamphetamine contamination notice has been posted
 9 under subsection (9) of this section shall disclose in writing to any potential lessee,
 10 tenant, or buyer that the property is contaminated with methamphetamine and has
 11 not been decontaminated pursuant to the requirements set forth in this section. If the
 12 property has been decontaminated and released by the cabinet from the need for
 13 further action, notice under this subsection shall not be required. The Department
 14 for Public Health shall promulgate administrative regulations setting forth the
 15 disclosure requirements.

16 (11) Once contaminated property has been decontaminated in accordance with standards
 17 set forth in subsection (3) of this section, the cabinet shall make available to owners
 18 of contaminated property who lease or rent the inhabitable property information
 19 about federal income tax deductions or credits available to compensate for damage
 20 done to the property in commission of a crime, including methamphetamine
 21 production done by someone other than the owner.

22 (12) To effect the provisions and promote the purposes of this section, the Energy and
 23 Environment~~Environmental and Public Protection~~ Cabinet, the Cabinet for Health
 24 and Family Services, and the Justice and Public Safety Cabinet shall integrate their
 25 efforts with other state agencies to provide information and training to the public
 26 about the health hazards associated with methamphetamine laboratories.

27 (13) The Energy and Environment~~Environmental and Public Protection~~ Cabinet, the

Cabinet for Health and Family Services, and the Justice and Public Safety Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost of assessment and decontamination of inhabitable properties.

➔Section 349. KRS 224.10-020 is amended to read as follows:

- (1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection, and a Department for Energy Development and Independence~~[of Labor, and a Department of Public Protection]~~.

Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

- (2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division~~[an Office]~~ of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas~~[Conservation]~~, and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing~~[, a Division of Explosives and Blasting, a Division of Investigation,]~~ and a Division of Safety Analysis, Training, and Certification. The Kentucky Mining Board is attached to the Office of Mine Safety and Licensing for administrative purposes. Each division shall be headed by a director and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050~~[and, as appropriate, KRS 353.530]~~, except for the director of the Division of Conservation, who shall be appointed in accordance with KRS 146.100. Both directors and executive directors shall be directly responsible to the

1 commissioner and shall perform the functions, powers, and duties as provided by
 2 law and as prescribed by the secretary.

- 3 (3) There is established within the Department for Environmental Protection a
 4 Division of Water, a Division for Air Quality, a Division of Waste Management, a
 5 Division of Enforcement, a Division of Compliance Assistance, and a Division of
 6 Environmental Program Support. Each division shall be headed by a director
 7 appointed by the secretary with the approval of the Governor as required by KRS
 8 12.050. Directors shall be directly responsible to the commissioner and shall
 9 perform the functions, powers, and duties as provided by law and as prescribed by
 10 the secretary.

11 ~~[(a) There is established within the Department of Labor an Office of~~
 12 ~~Occupational Safety and Health, an Office of Labor Management Relations~~
 13 ~~and Mediation, an Office of Workplace Standards, and a Division of~~
 14 ~~Administrative Services. Each division shall be headed by a director and each~~
 15 ~~office shall be headed by an executive director who shall be appointed by the~~
 16 ~~secretary with the approval of the Governor as required by KRS 12.050. The~~
 17 ~~directors and the executive directors shall be directly responsible to the~~
 18 ~~commissioner and shall perform the functions, powers, and duties as provided~~
 19 ~~by law and as prescribed by the secretary.~~

20 ~~(b) The following agencies are attached to the Department of Labor for~~
 21 ~~administrative purposes only:~~

- 22 1. ~~Kentucky Labor Management Advisory Council;~~
- 23 2. ~~Kentucky Employees' Insurance Association;~~
- 24 3. ~~State Labor Relations Board;~~
- 25 4. ~~Workers' Compensation Funding Commission;~~
- 26 5. ~~Workers' Compensation Advisory Council;~~
- 27 6. ~~Occupational Safety and Health Standards Board;~~

- 7.— ~~Prevailing Wage Review Board;~~
- 8.— ~~Apprenticeship and Training Council;~~
- 9.— ~~Employers' Mutual Insurance Authority;~~
- 10.— ~~Workers' Compensation Nominating Commission; and~~
- 11.— ~~Office of Workers' Claims.]~~

(4) *There is established within the Department for Energy Development and Independence a Division of Energy Efficiency and Conservation, a Division of Renewable Energy, a Division of Biofuels, a Division of Energy Generation, Transmission and Distribution, a Division of Carbon Management, and a Division of Fossil Energy Development. Each division shall be headed by a director. Directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.*

~~[(a) There is established within the Department of Public Protection a Division of Administrative Services, an Office of Financial Institutions, an Office of Insurance, an Office of Housing, Buildings and Construction, an Office of Charitable Gaming, and an Office of Alcoholic Beverage Control. Each division shall be headed by a division director and each office shall be headed by an executive director. Division directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050. Division directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.]~~

~~(b) The following agencies are attached to the Department of Public Protection for administrative purposes only:~~

- 1.— ~~Kentucky Public Service Commission;~~
- 2.— ~~Crime Victims Compensation Board;~~
- 3.— ~~Board of Claims;~~

1 4.—~~Board of Tax Appeals;~~

2 5.—~~Kentucky Boxing and Wrestling Authority; and~~

3 6.—~~Kentucky Horse Racing Authority.]~~

4 ➔Section 350. KRS 224.10-022 is amended to read as follows:

5 There is established in the Office of the Secretary an Office of ~~{Communications and~~
6 ~~Public Outreach, an Office of }Administrative Hearings[, an Office of Regulatory~~
7 ~~Affairs,]~~ **and** an Office of Legislative and Intergovernmental Affairs~~[, an Office of~~
8 ~~Inspector General, an Office of Legal Services, and an Office of Administrative and~~
9 ~~Information Services]. Each of these offices{office}~~ shall be headed by an executive
10 director appointed by the secretary with the approval of the Governor as required by KRS
11 12.050. **There is also established in the Office of the Secretary an Office of General**
12 **Counsel, headed by a general counsel appointed by the secretary with the approval of**
13 **the Governor in accordance with KRS 12.050 and 12.210.** The executive directors **and**
14 **the general counsel** shall be directly responsible to the secretary and shall perform the
15 functions, powers, and duties as provided by law and as prescribed by the secretary.~~{The~~
16 ~~Workers' Compensation Board and the Kentucky Occupational Safety and Health Review~~
17 ~~Commission shall be attached to the Office of the Secretary.}~~ The Environmental Quality
18 Commission, which shall be headed by an executive director appointed by the secretary
19 with the approval of the Governor, shall be attached to the Office of the Secretary. The
20 Kentucky State Nature Preserves Commission, which shall be headed by a director, and
21 the Mine Safety Review Commission, whose members shall be appointed by the
22 Governor with the consent of the General Assembly, shall be attached to the Office of the
23 Secretary. **The Kentucky Public Service Commission, which shall be headed by an**
24 **executive director appointed by the commission in accordance with KRS 278.100, shall**
25 **be attached to the Office of the Secretary for administrative purposes.**

26 ➔Section 351. KRS 224.10-052 is amended to read as follows:

27 (1) The ~~Office~~~~Division~~ of Occupations and Professions **in the Public Protection**

Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the State Board for Proprietary Education, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.

(2) To the extent that the **office**~~[division]~~ provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The **office**~~[division]~~ shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The **office**~~[division]~~ may employ persons previously employed by boards or commissions.

(3) The **office**~~[division]~~ may receive complaints against the conduct of licensees

1 granted licensure by the boards and commissions assigned to the office~~[division]~~ for
 2 administrative purposes. The office~~[division]~~ shall cause such complaints to be
 3 reduced to writing and forwarded to the appropriate board or commission for
 4 investigation and a determination of the validity of the complaint. The
 5 office~~[division]~~ shall keep a record of all complaints received by it and forwarded to
 6 a board or commission.

7 (4) Any board or commission listed in subsection (1) of this section, shall accept
 8 personal checks in payment of license renewal fees.

9 ➔Section 352. KRS 224.10-110 is amended to read as follows:

10 The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall
 11 enforce the rules and regulations adopted by the secretary of the Energy and
 12 Environment~~[Environmental and Public Protection]~~ Cabinet for the regulation and
 13 control of the matters set out below and shall formulate, promote, establish and execute
 14 policies, plans and programs relating to natural resources and environmental protection,
 15 including but not limited to the following matters:

- 16 (1) The proper disposal of waste;
- 17 (2) The purification of water for public and semipublic use;
- 18 (3) The proper construction and operation of public water distribution systems and
 19 water treatment systems in public water purification plants and swimming pools;
- 20 (4) The review, approval or disapproval of plans for construction, modification or
 21 extension of water purification and distribution systems and water treatment
 22 systems in swimming pools; and
- 23 (5) The certification of water and sewage plant operators.

24 ➔Section 353. KRS 224.10-220 is amended to read as follows:

- 25 (1) The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall
 26 adopt administrative regulations establishing reasonable timetables for the issuance
 27 of all permits by the cabinet, except those permits for which a timetable is set out by

statute. The timetables shall set specific time periods for actions to be taken in the consideration of permit applications.

(2) The timetables adopted pursuant to subsection (1) of this section shall be proposed for adoption and filed with the Legislative Research Commission no later than January 1, 1993. In the event that the timetables required by subsection (1) of this section are not proposed for adoption and filed with the Legislative Research Commission by the January 1, 1993 deadline, the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall cease the collection of permit fees for all permits for which timetables have not been established until the required timetables have been proposed for adoption.

(3) The cabinet shall waive the permit fee for any permit not acted upon, either favorably or unfavorably, in accordance with the established timetables. The approach of an impending deadline for action on a permit pursuant to the established timetables shall not be a reason for denial of a permit. However, nothing in this section shall require the cabinet to issue a permit which would violate this chapter or the administrative regulations adopted pursuant thereto.

➔Section 354. KRS 224.10-225 is amended to read as follows:

(1) The secretary of the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall facilitate the permitting of coal-fired electric generation plants or industrial energy facilities in the Commonwealth by developing procedures for one (1) stop shopping for environmental permits.

(2) Upon request by an applicant for environmental permits for an industrial energy facility, the secretary, in consultation with the applicant, shall establish specific time periods for actions to be taken in the consideration of its permit applications. The time periods established shall not exceed those adopted by administrative regulations promulgated pursuant to KRS 224.10-220.

➔Section 355. KRS 224.10-470 is amended to read as follows:

1 (1) Appeals may be taken from all final orders of the Energy and
 2 Environment~~Environmental and Public Protection~~ Cabinet. Except as provided in
 3 subsection (3) of this section, the appeal shall be taken to the Franklin Circuit Court
 4 within thirty (30) days from entry of the final order. The party or parties affected by
 5 the final order shall file in the Circuit Court a petition which states fully the grounds
 6 upon which a review is sought and assign all errors relied on. The cabinet shall be
 7 named respondent, and service shall be had on the secretary. Summons shall issue
 8 upon the petition directing the cabinet to send its entire record, properly bound, to
 9 the clerk of the Circuit Court after certifying that such record is its entire original
 10 record or a true copy thereof, which shall be filed by the clerk of the Circuit Court
 11 and such record shall then become official and be considered by the Circuit Court
 12 on the review. After the case has been properly docketed in the Circuit Court, any
 13 party directly affected by the issues on appeal, may, upon notice to the parties and
 14 upon proper showing and in the discretion of the court be permitted to intervene.
 15 Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence
 16 of the facts found therein. The court shall review the entire record and the findings
 17 and final order of the cabinet.

18 (2) Appeals to the Court of Appeals from orders of the Circuit Court, shall be taken in
 19 the manner provided in the Kentucky Rules of Civil Procedure.

20 (3) Final orders of the cabinet regarding environmental permits for an industrial energy
 21 facility as defined in KRS 224.01-010 shall be subject to expedited review by the
 22 Circuit Court located in the county where the industrial energy facility is proposed
 23 to be located.

24 ➔Section 356. KRS 224.10-620 is amended to read as follows:

25 The Kentucky Environmental Education Council, the Energy and
 26 Environment~~Environmental and Public Protection~~ Cabinet, and the Department of
 27 Education shall establish a program to educate the citizens of the Commonwealth of the

1 importance of reducing and managing waste effectively, the need for individual action to
 2 reduce the amount and toxicity of solid waste being disposed, the need for alternative
 3 disposal methods to landfilling for toxic materials commonly used in or around
 4 households such as cleaners, solvents, pesticides, and automotive and paint products, and
 5 the necessity of implementing environmentally protective management and disposal
 6 mechanisms for the solid waste that is generated. In helping develop the educational
 7 programs, the Department of Education shall identify and adopt mechanisms to inform
 8 students throughout the Commonwealth of the importance of reducing and managing
 9 solid waste effectively.

10 ➔Section 357. KRS 224.10-650 is amended to read as follows:

11 (1) The secretary of the *Energy and Environment*~~Environmental and Public~~
 12 ~~Protection~~] Cabinet shall assume the primary responsibility in state government for
 13 implementing a source separation and collection program for waste materials
 14 generated as a result of state agency operations, including, at a minimum,
 15 aluminum, high grade office paper, and corrugated paper.

16 (2) The cabinet shall establish procedures for collection and storage of recovered
 17 material and contractual or other arrangements for transportation and purchase of
 18 recovered materials. Every state agency of the executive, legislative, and judicial
 19 branches of state government and all state-supported institutions of higher
 20 education, in cooperation with the cabinet, shall develop a plan to conduct source
 21 separation and collection activities for recovered materials.

22 (3) A state agency or institution may elect to operate its own source separation program
 23 upon review and approval by the cabinet.

24 (4) The secretary of the *Energy and Environment*~~Environmental and Public~~
 25 ~~Protection~~] Cabinet shall take or cause to be taken such actions as may be necessary
 26 to:

27 (a) Identify the geographical location of existing or potential markets for

1 recovered materials and energy generated;

2 (b) Identify the economic and technical barriers to the use of recovered materials
3 and energy generated;

4 (c) Identify sound technologies, techniques, and processes for resource recovery
5 and energy generated applicable to both urban and rural areas of Kentucky;

6 (d) Encourage the development of new uses for recovered materials; and

7 (e) Encourage and promote the development of new markets for recovered
8 materials.

9 (5) Funds received by the Energy and Environment~~Environmental and Public~~
10 ~~Protection~~ Cabinet from the source separation and collection program as described
11 in this section shall be utilized by the cabinet to defray the cost of conducting the
12 activities outlined in this section. Funds received by any other state agency or
13 institution from an approved source separation collection program may be used to
14 offset costs of the program. Any moneys generated by the cabinet or other state
15 agencies or institutions in excess of the amounts needed to conduct these activities
16 shall be placed in the resource conservation and recovery fund and be used for other
17 litter abatement activities.

18 (6) There is created within the State Treasury a trust and agency fund, which shall not
19 lapse, to be known as the resource conservation and recovery fund. Any
20 appropriations, gifts, grants or program revenues received by the cabinet relating to
21 resource recovery and litter abatement shall be deposited in the fund. Moneys in the
22 fund shall be used for resource recovery and litter abatement activities.

23 ➔Section 358. KRS 224.10-660 is amended to read as follows:

24 (1) The Kentucky Recycling and Marketing Assistance Program, referred to in this
25 section as the "program," is created to develop a recycling infrastructure within the
26 Commonwealth. The program shall:

27 (a) Encourage the collection, processing, and marketing of recovered materials;

(b) Provide assistance for the development of community and regional recycling;

(c) Identify resources to help market recyclables; and

(d) Promote the development of the market for recyclables.

(2) The *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet shall administer the program and assist local governments and commercial businesses seeking to recycle materials.

(3) The secretary of the *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet shall create a Kentucky Recycling and Marketing Assistance Advisory Committee to act in an advisory capacity to the cabinet. In addition to its other duties, this committee shall develop and submit an annual report by October 1 to the Interim Committee on Agriculture and Natural Resources.

➔Section 359. KRS 224.18-210 is amended to read as follows:

Pursuant to Article III of the compact set forth in KRS 224.18-200, the Governor shall appoint four (4) commissioners in addition to the secretary of the *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet as members of the Interstate Air Pollution Control Commission. The commissioners shall promulgate rules and regulations to carry out more effectively the terms of the compact. The commissioners shall cooperate with all cabinets, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact and all such cabinets, agencies, and officers shall cooperate with the commissioners.

➔Section 360. KRS 224.18-220 is amended to read as follows:

Any payments necessary to discharge any financial obligations imposed upon the State of Kentucky by the compact, as provided in KRS 224.18-200, shall be made from the general fund appropriations to the Interstate Air Pollution Control Commission upon presentation to the Finance and Administration Cabinet of itemized vouchers signed by the secretary of the *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet.

➔Section 361. KRS 224.18-710 is amended to read as follows:

(1) A three (3) member Interstate Water Sanitation Board is established. The members of the board shall serve as Kentucky's members of interstate water sanitation control commissions created by compacts to which Kentucky is a party, which compacts are composed of states forming a river basin, and which compacts require a three (3) member representation from each state. The Governor shall appoint one (1) of the board members, who shall be a resident and citizen of this state. The member shall be appointed for a term of four (4) years, and shall hold office until his successor is appointed and qualified, subject to removal at the pleasure of the Governor. The Lieutenant Governor and the secretary of the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall, ex officio, be the second and third members of the board. Except as otherwise provided by the respective compacts, an ex officio member may delegate to any deputy or other subordinate in his cabinet the power to be present and participate, including the right to vote, as his representative or substitute at any meeting, hearing or other proceeding of the commissions.

(2) The membership of the first Interstate Water Sanitation Board shall be composed of the membership of the Ohio River Valley Water Sanitation Commission existing on June 19, 1958, and the terms of the appointed members shall be effective from the date of their appointment to the Ohio River Valley Water Sanitation Commission.

➔Section 362. KRS 224.20-120 is amended to read as follows:

In exercising the power conferred upon it by this chapter the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet shall give due recognition to the policy as heretofore expressed in KRS 224.20-100. The cabinet, in fixing standards, shall require the use of all available, practical, and reasonable methods to prevent and control air pollution in the Commonwealth of Kentucky. It shall give due recognition to the quantity of characteristics of air contaminants or the duration of their presence in the

1 atmosphere. It shall take into consideration in this connection such factors, among others,
 2 found by it to be proper and just, existing physical conditions, public benefit, that the
 3 degree of conformance therewith that may be proper as to an essentially residential area
 4 of the state may not be proper as to a highly industrial area of the state, and, further, the
 5 relationship between the intensity and composition of air pollution and the health of the
 6 public and damage to or interference with enjoyment of property. It shall give reasonable
 7 consideration to the interests of all parties concerned.

8 ➔ Section 363. KRS 224.20-510 is amended to read as follows:

9 (1) There is hereby established the Small Business Stationary Source Compliance
 10 Advisory Panel, referred to hereafter as "the panel," to determine the overall
 11 effectiveness of Kentucky's Small Business Stationary Source Technical and
 12 Environmental Compliance Assistance Program. The panel shall be attached to the
 13 **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet for
 14 administrative purposes.

15 (2) The eleven (11) member panel shall be appointed as follows:

16 (a) Two (2) members, who are not owners, or representatives of owners, of small
 17 business stationary sources, shall be selected by the Governor to represent the
 18 general public;

19 (b) Two (2) members, who are owners, or representatives of owners, of small
 20 business stationary sources, shall be selected by the Governor to represent
 21 small business stationary sources;

22 (c) Two (2) members shall be selected by the secretary of the **Energy and**
 23 **Environment**~~[Environmental and Public Protection]~~ Cabinet to represent that
 24 agency;

25 (d) One (1) member shall be selected by the secretary of the Cabinet for
 26 Economic Development; and

27 (e) Four (4) members who are owners, or representatives of owners of small

business stationary sources, shall be selected by the Kentucky General Assembly as follows:

1. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the Senate, and
2. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the House of Representatives.

(3) Members who were appointed before July 15, 1998, shall continue in office until October 30, 1998. The Governor shall then designate the members who have been appointed in accordance with subsection (2) of this section to serve initial terms as follows:

- (a) Three (3) members shall serve in office for four (4) years;
- (b) Three (3) members shall serve in office for three (3) years;
- (c) Three (3) members shall serve in office for two (2) years; and
- (d) Two (2) members shall serve in office for one (1) year.

When those initial terms expire, members shall serve in office for four (4) year terms.

(4) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(5) Members of the panel shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with Kentucky statutes and administrative regulations while performing official duties.

(6) The panel shall select one (1) of its members as chair and another as vice chair.

(7) Staff services for the panel shall be performed, insofar as practicable, by personnel of the cabinet.

➔Section 364. KRS 224.30-105 is amended to read as follows:

(1) "Secretary" means the secretary of the Energy and Environment~~Environmental and Public Protection~~ Cabinet.

1 (2) "Cabinet" means the *Energy and Environment*~~[Environmental and Public~~
 2 ~~Protection]~~ Cabinet.

3 (3) "Local government" means any county or city.

4 (4) "Environmental noise" and "ambient noise" means the intensity, duration, and
 5 character of sounds from all sources.

6 (5) "Ultimate purchaser" means the first person who in good faith purchases a product
 7 for purposes other than resale.

8 (6) "Person" means an individual, corporation, partnership, or association, and includes
 9 any officer, employee, department, agency, or instrumentality of the United States, a
 10 state, or any political subdivision of a state.

11 (7) "Noise" means the intensity, frequency, duration, and character of sounds from a
 12 source or number of sources. Noise includes vibrations of subaudible frequency.

13 (8) "Product" means any manufactured article or goods or component thereof.

14 ➔Section 365. KRS 224.40-340 is amended to read as follows:

15 The *Energy and Environment*~~[Environmental and Public Protection]~~ Cabinet shall not
 16 revoke, refuse to issue or refuse to renew permits to operators of solid waste disposal sites
 17 or facilities solely because the operator uses an incinerator for disposing of solid waste
 18 material. Provided, however, that the cabinet shall be empowered to revoke, refuse to
 19 issue or refuse to renew solid waste disposal permits if the operator has not complied with
 20 its regulations relating to permits to use incinerators, refuse burners and open burning.
 21 This section shall not prevent the cabinet from revoking, refusing to issue or refusing to
 22 renew solid waste disposal permits due to the use of incinerators, refuse burning and open
 23 burning which it has not authorized.

24 ➔Section 366. KRS 224.40-605 is amended to read as follows:

25 (1) The cabinet shall promulgate regulations which establish standards for the operator
 26 of any waste site or facility or portion thereof, whether publicly or privately owned,
 27 requiring such operators to do the following:

- 1 (a) Attend a training session concerning the operation of the appropriate type *of*
- 2 waste facility conducted by the *Energy and Environment*~~[Environmental and~~
- 3 ~~Public Protection]~~ Cabinet;
- 4 (b) Indicate sufficient skill and competency for proper operation of the waste site
- 5 by adequate performance on an examination prescribed by the *Energy and*
- 6 *Environment*~~[Environmental and Public Protection]~~ Cabinet;
- 7 (c) Pay a reasonable fee related to the cost of conducting training and certification
- 8 sessions to be utilized to defray the cost of conducting the sessions; and
- 9 (d) Renew the certificates of competence at reasonable intervals.

- 10 (2) No person shall authorize or allow any person who does not hold a certificate issued
- 11 pursuant to subsection (1) of this section to have primary responsibility for the
- 12 operation of any waste site or facility or portion thereof.

13 ➔Section 367. KRS 224.43-080 is amended to read as follows:

- 14 (1) On July 15, 1994, and annually thereafter, each publisher shall submit a report to
- 15 the cabinet. The report shall indicate the amount of newsprint used in the preceding
- 16 year, its recycled content, along with any other information required by the cabinet.
- 17 (2) The Governor shall appoint a Newsprint Recycling Task Force consisting of the
- 18 secretary of the *Energy and Environment*~~[Environmental and Public Protection]~~
- 19 Cabinet or a designee; the chairman of the Kentucky Recycling and Marketing
- 20 Assistance Advisory Committee or a designee; the executive director of the
- 21 Kentucky Press Association or a designee; three (3) members from environmental
- 22 organizations; and five (5) members representing the Kentucky newsprint
- 23 publishing industry and newsprint manufacturers doing business in Kentucky. A list
- 24 of names of potential task force members shall be provided by the president of the
- 25 Kentucky Press Association.
- 26 (3) The task force members shall each serve a two (2) year term. The initial five (5)
- 27 industry representatives appointments shall consist of two (2) two (2) year terms

1 and three (3) one (1) year terms.

2 (4) The Newsprint Recycling Task Force shall meet as necessary to monitor the use of
3 newsprint in the state for the following goals:

4 (a) To increase the demand for recycled newsprint in Kentucky;

5 (b) To increase the availability for the product;

6 (c) To establish Kentucky as a reliable source of old newsprint for recycling; and

7 (d) To identify, develop, and advance initiatives to recycle and reuse discarded
8 newspapers and paper products with an emphasis on recycling these materials
9 instead of diverting them for disposal.

10 (5) The Newsprint Recycling Task Force and the Kentucky Press Association shall
11 encourage all Kentucky industries and businesses, their trade or professional
12 organizations, and all public agencies at the state and local level to increase their
13 use of recycled newsprint.

14 (6) The Newsprint Recycling Task Force shall take steps to attract a recycled newsprint
15 mill or related facility to Kentucky by identifying potential sites and potential
16 manufacturers. The task force shall also work with the Kentucky Recycling and
17 Marketing Assistance Advisory Committee in recommending appropriate economic
18 and tax incentives to encourage such a project.

19 (7) The Newsprint Recycling Task Force shall promote the increased recovery of old
20 newspapers and, with the Commonwealth of Kentucky representatives, work with
21 communities to develop processing and collection programs to provide quality
22 material to the marketplace.

23 (8) The Newsprint Recycling Task Force shall report to the Interim Joint Committee on
24 Agriculture and Natural Resources by October 1, 1995, on the availability and cost
25 of adequate supplies of newsprint which contain a recycled content of fifty percent
26 (50%) or more, or any other information or recommendations deemed appropriate.

27 ➔Section 368. KRS 224.43-090 is amended to read as follows:

Exclusive venue for any appeal of a violation, determination, finding of noncompliance, or any other action of the Finance and Administration Cabinet, Energy and Environment~~[Environmental and Public Protection]~~ Cabinet, or other state agency relating to any county, urban-county, charter county, consolidated local government, city, special district, or other governmental unit specified in this subchapter and KRS 30A.190, 109.011, 109.041, 109.0415, 224A.011, 224A.100, 431.100, 433.753, 433.757, and 512.070 shall be in the court of competent jurisdiction of the county which is the subject of the action by the state agency.

➔Section 369. KRS 224.43-310 is amended to read as follows:

(1) The Energy and Environment~~[Environmental and Public Protection]~~ Cabinet of the Commonwealth of Kentucky is designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The cabinet shall have primary responsibility for coordinating the solid waste planning and management activities of waste management districts, counties, cities, area development districts, and any combination thereof and for the approval of solid waste management facilities. In doing so it shall be the goal of the cabinet to reduce the amount of solid waste disposed in municipal solid waste disposal facilities within the Commonwealth and to encourage regional management of solid waste.

(2) The cabinet shall have the primary responsibility to develop, review, report on, and triennially update a statewide solid waste reduction and management plan. A draft plan shall be prepared and made available for public inspection by December 1, 1991; a proposed final plan shall be submitted to the General Assembly by February 1, 1992; and a final plan shall be submitted to the General Assembly by March 1, 1992. The plan shall be designed to address the following:

- (a) Coordination of area plans and provision of support for area planning efforts;
- (b) Elimination of existing open dumps and prevention of new open dumps;
- (c) Proper closure, characterization, and corrective action for municipal solid

- 1 waste disposal facilities that ceased accepting waste before July 1, 1992;
- 2 (d) Reductions in solid waste disposed in municipal solid waste disposal facilities
3 within the Commonwealth by actively promoting reuse and reduction
4 consistent with the policies and goals established by KRS 224.43-010;
- 5 (e) Adequate capacity exists for recycling or disposal of solid waste generated
6 within the Commonwealth for five (5), ten (10), and twenty (20) year planning
7 periods;
- 8 (f) Maintenance of disposal capacity for solid waste generated in the
9 Commonwealth if the cabinet acts to close a solid waste management facility;
- 10 (g) Encouragement of regional alternatives for waste reduction and management
11 in the planning process;
- 12 (h) Priority in grants and loans for projects and practices consistent with the
13 policies and goals established by KRS 224.43-010;
- 14 (i) Minimum standards and procedures for solid waste management plans as
15 established by the cabinet in administrative regulations;
- 16 (j) A description of the status of solid waste reduction and management efforts in
17 Kentucky;
- 18 (k) Identification of state actions and responsibilities necessary to implement this
19 chapter; and
- 20 (l) Identification of problems impeding the attainment of the policies and goals of
21 this chapter.
- 22 (3) The statewide solid waste reduction and management plan shall not establish
23 maximum disposal capacity limitations for the Commonwealth.
- 24 (4) The cabinet, beginning July 1, 1992, shall report annually to the Governor and to
25 the General Assembly on the status of solid waste management in the
26 Commonwealth. The report filed July 1, 1992, shall present the current status of
27 solid waste planning and management in the Commonwealth. Subsequent annual

1 reports shall include but not be limited to:

2 (a) The status of solid waste planning and management;

3 (b) The number and types of recycling and solid waste management facilities in
4 the Commonwealth;

5 (c) The status of actions taken to:

6 1. Eliminate existing open dumps and prevent new open dumps; and

7 2. Undertake proper closure, characterization, and corrective action for
8 municipal solid waste disposal facilities that ceased accepting waste
9 before July 1, 1992;

10 (d) The remaining permitted capacity of each permitted solid waste management
11 facility;

12 (e) The number and types of solid waste grants or loans made to cities, counties,
13 waste management districts, and area development districts;

14 (f) A compilation and analysis of solid waste reduction and management data
15 provided to the cabinet;

16 (g) A statement of progress achieved in meeting the policies and goals established
17 by KRS 224.43-010;

18 (h) A statement of progress achieved in solid waste management education;

19 (i) A statement of progress achieved in establishing regional solid waste
20 management approaches;

21 (j) Any revisions in the statewide solid waste reduction and management plan;
22 and

23 (k) Recommendations for improving the reduction and management of solid
24 waste in the Commonwealth.

25 (5) On March 1 of each year, each governing body shall report annually to the cabinet
26 on the status of solid waste management in its area. The annual report shall include
27 but not be limited to:

- 1 (a) The amount of in-area and out-of-area municipal solid waste disposed in
2 municipal solid waste disposal facilities in the area;
- 3 (b) The total cumulative progress made toward meeting the policies and goals
4 established by KRS 224.43-010;
- 5 (c) The remaining permitted capacity of disposal facilities;
- 6 (d) Recycling and composting activities in existence;
- 7 (e) Public information and education activities during the reporting period
8 including public campaigns urging participation in a municipal solid waste
9 collection system and public campaigns promoting anti-litter and anti-
10 dumping behavior with an accounting by the governing body of funds spent,
11 labor expended, volunteer time and money expended, and an estimation of the
12 campaign's effect;
- 13 (f) The number of households within the area served by the governing body and
14 the methods of public or private municipal solid waste collection available to
15 them, the cost to the households using the collection system, the percentage of
16 households using each method of municipal solid waste collection available to
17 them, the cost to the governing body of providing a municipal solid waste
18 collection system, how the cost is paid for by the governing body, and the
19 percentage of the cost that is recovered through service fees, including a
20 complete accounting for collected fees, uncollected fees, and success in
21 recovering uncollected fees;
- 22 (g) Progress made since the last report on cleaning up illegal open dumps,
23 including the number of open dumps eliminated since the last report or the last
24 solid waste management plan revision, the total and average cost per open
25 dump elimination, and identification of new open dumps or cleaned up open
26 dumps that have been used again for illegal dumping;
- 27 (h) Fees for solid waste management assessed and collected;

(i) Costs of any projects undertaken pursuant to the solid waste management plan; and

(j) Any other pertinent information as may be required by the cabinet.

➔Section 370. KRS 224.46-315 is amended to read as follows:

(1) There shall be established a Center for Pollution Prevention, which shall be a technical information and assistance office to be located at a state-owned university, which shall facilitate and promote the commercial implementation of pollution prevention technologies and procedures by providing technical and financial assistance, as available, to business and industry. The center shall be governed by a board of directors representing the following organizations:

(a) The secretary of the Energy and Environment~~Environmental and Public Protection~~ Cabinet or a designee of the secretary;

(b) The dean of the University of Louisville School of Engineering or a designee of the dean;

(c) The dean of the University of Kentucky School of Engineering or a designee of the dean;

(d) A representative of the industrial community appointed by the Governor;

(e) A representative of the environmental protection community appointed by the Governor;

(f) A representative of local government appointed by the Governor;

(g) An environmental engineer appointed by the Governor;

(h) An at-large member appointed by the Governor representing an industrial facility;

(i) An at-large member appointed by the Governor representing an agricultural producer; and

(j) An at-large member appointed by the Governor representing the public.

(2) Board members may designate proxies who shall have voting privileges at board

meetings. The members identified in subsection (1)(a) to (1)(d) of this section shall serve as permanent members of the board. Of the six (6) members identified in subsections (1)(e) to (j) of this section, two (2) shall continue in office for two (2) years, two (2) shall continue in office for three (3) years, and two (2) shall continue in office for four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for three (3) years. Members may be reappointed. The Governor shall appoint a chairperson for the board.

(3) Meetings of the board shall be held at least quarterly, but may be held more frequently if necessary. The chair or a majority of members may call a special meeting. Five (5) members of the board shall constitute a quorum for doing business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions. No member shall receive a salary, fee, or other remuneration for services as a member of the board, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The board shall:

- (a) Formulate policies and procedures necessary to carry out the purposes stated in KRS 224.46-305;
- (b) Promulgate administrative regulations solely to carry out the purposes of KRS 224.46-320 to assure the proper distribution of funds available to the center;
- (c) Review and authorize pollution prevention projects and programs to be undertaken and financed pursuant to KRS 224.46-305, 224.46-320, 224.46-330, and 224.46-580;
- (d) Review and approve all progress and final research reports on projects authorized by KRS 224.46-305 and 224.46-320;
- (e) Assure that funds available to the center are not diverted to any uses

1 inconsistent with KRS 224.46-305 to 224.46-335 and KRS 224.46-580, and
 2 that all authorized projects are directed toward improvement of the
 3 environment, specifically toward pollution prevention and toward preserving
 4 and strengthening industry in Kentucky;

5 (f) Provide to the Governor and the General Assembly an annual report showing
 6 the status of funds appropriated for the purposes of KRS 224.46-305 to
 7 224.46-335 and KRS 224.46-580 for pollution prevention and progress of the
 8 board in terms of its research and pollution prevention technology
 9 implementation efforts;

10 (g) Advise the Governor and the General Assembly each year of the need for
 11 continuation of the center and its board through levy of the hazardous waste
 12 assessment fund for the purpose of financing pollution prevention programs;

13 (h) Approve and release public statements relating to the progress and results of
 14 pollution prevention programs and research;

15 (i) Hire a technical advisor if deemed necessary; and

16 (j) Approve the budget and expenditures of the center.

17 ➔Section 371. KRS 224.46-505 is amended to read as follows:

18 The General Assembly of the Commonwealth of Kentucky hereby finds, determines, and
 19 declares as follows:

20 (1) That technological progress and increases in the amounts of manufacturing are
 21 continuing to result in increasing quantities of hazardous waste being generated and
 22 prohibiting the generation of hazardous waste would result in a competitive
 23 economic disadvantage for the Commonwealth;

24 (2) That the Commonwealth is the site of much improper and inadequately regulated
 25 handling, treatment, transportation, storage, and disposal of hazardous waste which
 26 presents a threat to the public health, safety, and welfare and the environment;

27 (3) That by the enactment by the Congress of the United States of the Resource

1 Conservation and Recovery Act of 1976, as amended (PL 94-580), the generation,
 2 transportation, treatment, storage, recycling, and disposal of hazardous waste has
 3 been determined to be a matter of national importance, recognizing that hazardous
 4 waste presents, in addition to the problems generally associated with nonhazardous
 5 waste, special dangers to health and requires a greater degree of regulation than
 6 does nonhazardous waste;

7 (4) That the primary responsibility for proper hazardous waste management rests with
 8 the generators, transporters, treaters, storers, recyclers, and disposers of hazardous
 9 waste, subject to rules, regulations, guidelines, and standards promulgated by the
 10 **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet and also
 11 subject to registration or permitting by the cabinet for the purpose of effectuating
 12 safe and proper management at all steps in the hazardous waste cycle;

13 (5) That the participation of the private sector and the interested public in any aspect of
 14 hazardous waste management not expressly reserved as state or federal authority as
 15 set forth in KRS 224.46-510 to 224.46-570 or other statutes is encouraged,
 16 moreover, it is preferable for hazardous waste management functions to be
 17 performed by the private sector when such is in the best interest of the public and
 18 conforms with the policies and provisions set forth in KRS 224.46-510 to 224.46-
 19 570;

20 (6) That as a matter of policy the prevention of pollution or reduction of waste at its
 21 source is the preferred management option. Pollutants that cannot be prevented
 22 should be recycled in an environmentally-safe manner whenever feasible. Pollution
 23 that cannot be prevented or recycled should be treated; and, disposal or other release
 24 into the environment should only be employed when no other feasible option is
 25 available; and

26 (7) That as a result of the conditions described in the foregoing findings, the problems
 27 of hazardous waste generation, transportation, treatment, storage, recycling, and

1 disposal have become a matter of extreme state concern necessitating action by the
 2 General Assembly to protect the public health, safety, and welfare and the
 3 environment of the Commonwealth.

4 ➔Section 372. KRS 224.46-580 is amended to read as follows:

5 (1) The General Assembly declares that it is the purpose of this section to promote the
 6 development of statewide programs, under the responsibility of a single agency,
 7 which are intended to protect the health of the citizens and the environment of the
 8 Commonwealth from present and future threats associated with the management of
 9 hazardous wastes and the release of toxic chemicals regulated under Title III,
 10 Section 313 of the Superfund Amendments and Reauthorization Act of 1986,
 11 including disposal, treatment, recycling, storage, and transportation. The intent of
 12 the General Assembly is to add to and coordinate, and not replace, existing efforts
 13 and responsibilities in the areas of hazardous waste management, toxic chemical
 14 manufacture, processing, or other use, and to leave the primary burden and
 15 responsibility for hazardous waste and toxic chemical reduction on private industry;
 16 and further to finance assistance and coordination by imposing assessments on the
 17 generation of hazardous waste. The assessments are intended to produce a reduction
 18 in waste generated; to promote the use of new techniques in recycling, treatment,
 19 and alternatives other than land disposal; and to place the burden of financing
 20 additional hazardous waste management activities necessarily undertaken by state
 21 agencies on the users of those products associated with the generation of hazardous
 22 waste. The General Assembly further finds that Kentucky's industries need
 23 assistance in developing and implementing pollution prevention goals and that a
 24 fund should be established to provide technical and financial assistance to those
 25 industries.

26 (2) The Energy and Environment~~Environmental and Public Protection~~ Cabinet is
 27 given the authority to administer the provisions and programs of this section and the

1 responsibility to achieve the purposes of this section.

2 (3) In addition to all specific responsibilities contained elsewhere in this chapter, the
3 cabinet shall:

4 (a) Respond effectively and in a timely manner to emergencies created by the
5 release of hazardous substances, as defined in KRS 224.01-400, into the
6 environment. The cabinet shall provide for adequate containment and removal
7 of the hazardous substances in order that the threat of a release or actual
8 release of the substance may be abated and resultant harm to the environment
9 minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by
10 the cabinet if necessary to respond to an environmental emergency.

11 (b) Provide for post-closure monitoring and maintenance of hazardous waste
12 disposal sites upon termination of post-closure monitoring and maintenance
13 responsibilities by persons permitted to operate the facility pursuant to this
14 chapter.

15 (c) Identify, investigate, classify, contain, or clean up any release, threatened
16 release, or disposal of a hazardous substance where responsible parties are
17 economically or otherwise unavailable to properly address the problem and
18 the problem represents an imminent danger to the health of the citizens and
19 the environment of the Commonwealth.

20 (4) The cabinet shall have the authority to finance the nonfederal share of the cost for
21 clean up of sites under the Comprehensive Environmental Response, Compensation
22 and Liability Act of 1980 (Pub. L. 96-510).

23 (5) The cabinet shall recover, when possible, actual and necessary expenditures
24 incurred in carrying out the duties under this section. Any expenditures recovered
25 shall be placed in the hazardous waste management fund.

26 (6) It is the expressed purpose of this section to accomplish effective hazardous waste
27 and toxic chemical management that results in a reduction of the generation of

1 hazardous wastes and the release of toxic chemicals within the Commonwealth;
2 further, it is a purpose of this chapter to allocate a portion of the cost of
3 administering necessary governmental programs related to hazardous waste and
4 toxic chemical management to those industries whose products are reasonably
5 related to the generation of hazardous waste.

- 6 (7) There is hereby imposed upon every person engaged within this state in the
7 generation of hazardous waste an annual hazardous waste assessment to be
8 determined pursuant to this section according to the quantity by weight of hazardous
9 waste generated, except that no assessment shall be levied against generators for
10 any quantity of "special wastes," waste oil, or spent material from air pollution
11 control devices controlling emissions from coke manufacturing facilities. The
12 assessment shall not be imposed upon any person for any quantities of hazardous
13 waste generated by others for which that person is a secondary handler that stores,
14 processes, or reclaims the waste. The assessment shall be reported and paid to the
15 Energy and Environment~~Environmental and Public Protection~~ Cabinet for the
16 generation of hazardous waste on an annual basis on January 1 of each year. The
17 payment shall be accompanied by a report or return in a form that the cabinet may
18 prescribe. If a federal law is enacted which accomplishes or purports to accomplish
19 the purposes set forth in this section and which levies an assessment or tax upon any
20 business assessed pursuant to this section, the amount of the assessment to be levied
21 upon the business under this section shall be reduced by the amount of the federal
22 assessment or tax upon the business. The reduction shall only be authorized when
23 funds raised by the federal assessment or tax are made available to the state for any
24 of the activities to be funded under this section. If federal moneys are available to
25 carry out the duties imposed by subsection (3) of this section, the assessment shall
26 cease to be levied and collected until such time as federal moneys are no longer
27 available to the Commonwealth for these purposes. The assessment shall be charged

1 against generators of hazardous waste until June 30, 2016. After this date, no further
2 hazardous waste management assessment shall be charged against generators. The
3 hazardous waste assessment shall be waived for any generator owing less than fifty
4 dollars (\$50) for the year. However, a return must be filed by generators to whom a
5 payment waiver applies.

6 (8) The assessment on generators shall be one and two-tenths cents (\$0.012) per pound
7 if the waste is liquid, or two-tenths of a cent (\$0.002) per pound if the waste is
8 solid.

9 (a) Hazardous waste that is injected into a permitted underground injection well
10 shall be assessed on a dry weight basis;

11 (b) Hazardous waste treated, detoxified, solidified, neutralized, recycled,
12 incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the
13 appropriate rate, except for recycled waste used in the steel manufacturing
14 process which shall be exempt;

15 (c) Waste that is subject to regulation under Section 402 or 307B of the Federal
16 Clean Water Act shall be exempt;

17 (d) Emission control dust and sludge from the primary production of steel that is
18 recycled by high temperature metals recovery or managed by stabilization of
19 metals shall be exempt; and

20 (e) Waste that is delivered from the generator to an on-site or off-site industrial
21 boiler or furnace and burned for energy recovery in accordance with state and
22 federal laws and regulations shall be assessed at one-half (1/2) of the
23 appropriate rate.

24 (9) Except for waste brought into the state by a company to an affiliated manufacturing
25 facility of the company receiving the waste, any person who transports hazardous
26 waste into the state for land disposal or treatment which is generated outside of the
27 state shall pay an assessment to the hazardous waste facility which first receives the

1 waste for storage, treatment, or land disposal. The assessment rate shall be identical
2 to the rate described in subsection (8) of this section. The facility shall remit the
3 assessment to the cabinet on an annual basis on January 1 of each year. The
4 payment shall be accompanied by a return the cabinet shall prescribe.

5 (10) If any generator or hazardous waste facility subject to the provisions of subsection
6 (8) or (9) of this section fails or refuses to file a return or furnish any information
7 requested in writing by the cabinet, the cabinet may, from any information in its
8 possession, make an estimate and issue an assessment against the generator or
9 hazardous waste facility and add a penalty of ten percent (10%) of the amount of the
10 assessment so determined. This penalty shall be in addition to all other applicable
11 penalties in this chapter.

12 (11) If any generator or hazardous waste facility subject to the provisions of subsection
13 (8) or (9) of this section fails to make and file a return required by this chapter on or
14 before the due date of the return or the due date as extended by the cabinet, unless it
15 is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause,
16 five percent (5%) of the assessment found to be due by the cabinet shall be added to
17 the assessment for each thirty (30) days or fraction thereof elapsing between the due
18 date of the return and the date on which it is filed, but the total penalty shall not
19 exceed twenty-five percent (25%) of the assessment.

20 (12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the
21 generator, or any installment or portion of the assessment is not paid on or before
22 the date prescribed for its payment, there shall be collected, as a part of the
23 assessment, interest upon the unpaid amount at the rate of eight percent (8%) per
24 annum from the date prescribed for its payment until payment is actually made to
25 the cabinet.

26 (13) (a) There is hereby created within the State Treasury a trust and agency fund
27 which shall not lapse to be known as the hazardous waste management fund.

1 The fund shall be deposited in an interest-bearing account. The cabinet shall
2 be responsible for collecting and receiving funds as provided in this section,
3 and all such assessments collected or received by the State Treasury shall be
4 deposited in the hazardous waste management fund. All interest earned on the
5 money deposited in the fund shall be deposited to the fund. When the State
6 Treasurer certifies to the cabinet that the uncommitted balance of the
7 hazardous waste management fund exceeds six million dollars (\$6,000,000),
8 assessments shall not be collected until the State Treasurer certifies to the
9 cabinet that the balance in the hazardous waste management fund is less than
10 three million dollars (\$3,000,000). The implementation of the cap on the fund
11 shall be suspended from July 13, 1990, until July 1, 1991. In addition, for
12 assessments paid after July 1, 1991, the cabinet shall refund or grant a credit
13 against the next assessment to come due, on a pro-rated basis, any money
14 collected in one (1) year in excess of the cap.

15 (b) In any fiscal year in which the fees assessed under this section total less than
16 one million eight hundred thousand dollars (\$1,800,000) in fiscal year 2007-
17 2008 dollars, adjusted annually to reflect any increase in the cost-of-living
18 index, the difference between the fee receipts and the adjusted minimum
19 balance shall be transferred from funds collected pursuant to KRS 224.60-130.

20 (c) The cabinet shall file with the Legislative Research Commission a biennial
21 report, beginning two (2) years after July 15, 2008, on the revenues and
22 expenditures of the fund.

23 (14) There is hereby created within the State Treasury a trust and agency account which
24 shall not lapse to be known as the pollution prevention fund. The fund shall be
25 placed in an interest-bearing account. The fund shall be administered by the Center
26 for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty
27 percent (20%) of the funds received by the hazardous waste management fund

1 subject to the enacted budget bill.

2 (15) Upon request of the secretary, moneys accumulated in the hazardous waste
3 management fund shall be released in amounts necessary to accomplish the
4 performance of the duties imposed by subsection (3) of this section. However,
5 moneys from the fund shall not be used when federal moneys are available to carry
6 out these duties, except when immediate action is required to protect public health
7 or the environment, in which case the cabinet shall actively pursue reimbursement
8 of the fund by any available federal moneys.

9 (16) If any person responsible for a release or threatened release of a hazardous
10 substance fails to take response actions or to make reasonable progress in
11 completing response actions ordered by the cabinet, the cabinet may bring an action
12 to compel performance or may take appropriate response actions and order the
13 responsible person to reimburse the cabinet for the actual costs incurred by the
14 cabinet.

15 (17) If disposal activities have occurred at a hazardous waste site, the cabinet shall
16 record in the office of the county clerk in the county in which a waste site is situated
17 a notice containing a legal description of the property that discloses to any potential
18 transferee that the land was used to dispose hazardous waste and that further
19 information on the hazardous waste site may be obtained from the cabinet.

20 (18) No person shall affect the integrity of the final cover, liners, or any other
21 components of any containment system after closure of a hazardous waste site on or
22 in which hazardous waste remains without prior written approval of the cabinet.

23 ➔Section 373. KRS 224.46-810 is amended to read as follows:

24 As used in this chapter, unless the context clearly indicates otherwise:

25 (1) "Board" means the Kentucky Regional Integrated Waste Treatment and Disposal
26 Facility Siting Board.

27 (2) "Certificate" means a certificate of environmental safety and public necessity.

1 (3) "Cabinet" means the Energy and Environment~~Environmental and Public~~
2 ~~Protection~~ Cabinet.

3 (4) "Regional integrated waste treatment and disposal demonstration facility" means a
4 model hazardous waste facility receiving wastes from a region larger than the
5 county boundaries in which it is located, from more than one (1) person, and
6 utilizing multiple treatment and disposal technologies, one (1) of which must be a
7 secure landfill, and one (1) of which must be a high technology incinerator, and
8 designed so as to promote resource recovery and energy generation from hazardous
9 waste and the use of state-of-the-art techniques for rendering waste nonhazardous,
10 and the disposal of waste in a manner that minimizes the risk to public health and
11 long term environmental impacts.

12 ➔Section 374. KRS 224.46-850 is amended to read as follows:

13 (1) It is the intent of the General Assembly that a regional integrated waste treatment
14 and disposal demonstration facility contain an industrial park component. The
15 approved site for a regional integrated waste treatment and disposal demonstration
16 facility shall be of sufficient size to accommodate new industrial and commercial
17 concerns that can utilize the energy by-products of the treatment technologies.

18 (2) It shall be the responsibility of the Department for Energy Development and
19 Independence~~Office of Energy Policy~~ to establish a plan for and develop the
20 industrial park component of a regional integrated waste treatment and disposal
21 demonstration facility. The industrial park component, located on property
22 contiguous with the treatment and disposal technologies, shall be designed so as to
23 utilize energy generated from the waste treatment technologies.

24 ➔Section 375. KRS 224.46-870 is amended to read as follows:

25 The Department for Energy Development and Independence~~Office of Energy Policy~~
26 shall provide the cabinet with the information deemed necessary by the cabinet to project
27 hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24)

1 and 224.46-830(2)(d).

2 ➔Section 376. KRS 224.60-105 is amended to read as follows:

3 (1) Owners of any underground storage tank, currently existing, or taken out of
4 operation after January 1, 1974, shall notify the cabinet of the existence of such
5 tanks and a description of the tank and its use in accordance with regulations
6 promulgated by the cabinet.

7 (2) The cabinet shall regulate underground storage tanks by requiring minimum
8 construction and performance standards, leak detection, record keeping, reporting
9 releases, corrective actions, closure, financial responsibility, and any other
10 requirement deemed necessary by the cabinet to protect the public health and
11 environment. In promulgating regulations to carry out this section the cabinet may
12 distinguish between types, classes, and ages of underground storage tanks.

13 (3) It is the intent of the General Assembly that the cabinet shall establish a program to
14 regulate underground storage tanks which implements federal regulatory
15 requirements for underground storage tanks. The cabinet shall develop and
16 implement a program and promulgate administrative regulations for underground
17 storage tanks which shall be submitted for approval to the United States
18 Environmental Protection Agency pursuant to federal regulations.

19 (4) KRS 224.60-105 to 224.60-160 and administrative regulations promulgated under
20 authority of KRS 224.60-105 to 224.60-160 shall supercede and preempt all local
21 laws, ordinances, and regulations pertaining to petroleum underground storage
22 tanks, except:

23 (a) Any applicable state fire marshal regulations or local building permit
24 procedures for petroleum storage tank installations;

25 (b) Any local law, ordinance, or regulation promulgated before July 15, 1990; or

26 (c) Any local restrictions or conditions imposed pursuant to KRS Chapter 100.

27 ➔Section 377. KRS 224.60-115 is amended to read as follows:

1 As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

- 2 (1) "Bodily injury and property damage" means only those actual economic losses to an
3 individual or the individual's property resulting from bodily injuries and damages to
4 property caused by a release into the environment from a petroleum storage tank. In
5 this context, property damage includes damage to natural resources;
- 6 (2) "Cabinet" means the Energy and Environment~~Environmental and Public~~
7 ~~Protection~~ Cabinet;
- 8 (3) "Claim" means any demand in writing for a certain sum;
- 9 (4) "Corrective action" means those actions necessary to protect human health and the
10 environment in the event of a release from a petroleum storage tank. Corrective
11 action includes initial responses taken pursuant to KRS 224.60-135, remedial
12 actions to clean up contaminated groundwater, surface waters, or soil, actions to
13 address residual effects after initial corrective action is taken, and actions taken to
14 restore or replace potable water supplies. Corrective action also includes actions
15 necessary to monitor, assess, and evaluate a release, as well as actions necessary to
16 monitor, assess, and evaluate the effectiveness of remedial action after a release has
17 occurred;
- 18 (5) "Dealer" means a person required to be licensed as a gasoline or special fuels dealer
19 as defined in KRS 138.210(2);
- 20 (6) "Division" means the Division of Waste Management;
- 21 (7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks
22 which are owned or operated by an owner or operator and are located on a single
23 parcel of property or on any contiguous or adjacent property;
- 24 (8) "Federal regulations" means regulations for underground petroleum storage tanks
25 promulgated by the United States Environmental Protection Agency pursuant to
26 Subtitle I of the Solid Waste Disposal Act, as amended by the Resource
27 Conservation and Recovery Act;

- 1 (9) "Free product" means a regulated substance that is present as a non-aqueous phase
2 liquid;
- 3 (10) "Fund" means the petroleum storage tank environmental assurance fund and its
4 subaccounts, the financial responsibility account and the petroleum storage tank
5 account established pursuant to KRS 224.60-140;
- 6 (11) "Gasoline" means gasoline as defined in KRS 138.210(4);
- 7 (12) "Motor fuel" means petroleum or a petroleum-based substance that is motor
8 gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that
9 is typically used in the operation of a motor engine, jet fuel, and any petroleum or
10 petroleum-based substance typically used in the operation of a motor vehicle,
11 including used motor vehicle lubricants and oils;
- 12 (13) "Occurrence" means a release, or releases, of an accidental nature, requiring
13 corrective action, from a petroleum storage tank or tanks located at the same
14 facility, due to continuous or repeated exposure to conditions. An additional release
15 or releases at the same facility in which the area requiring remedial action is
16 separate from a previous remediation area or areas shall be considered a separate
17 occurrence;
- 18 (14) "Person" means an individual, trust, firm, joint stock company, federal agency,
19 corporation, the state, a municipality, commission, or political subdivision of the
20 state. The term includes a consortium, a joint venture, the United States
21 government, or a commercial entity;
- 22 (15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof,
23 which is liquid at standard conditions of temperature and pressure, which means at
24 sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term
25 includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating
26 oil, special fuels, lubricants, and used oil;
- 27 (16) "Petroleum storage tank" means an underground storage tank, as defined by KRS

224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

➔ Section 378. KRS 224.60-130 is amended to read as follows:

(1) The **Energy and Environment**~~[Environmental and Public Protection]~~ Cabinet, Department for Environmental Protection, Division of Waste Management, shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting

1 administrative regulations to carry out this section, the division may
2 distinguish between types, classes, and ages of petroleum storage tanks. The
3 division may establish a range of amounts to be paid from the fund, or may
4 base payments on methods such as pay for performance, task order, or firm
5 fixed pricing, which are designed to provide incentives for contractors to more
6 tightly control corrective action costs, and shall establish criteria to be met by
7 persons who contract to perform corrective action to be eligible for
8 reimbursement from the fund. The criteria may include the certification of
9 individuals, partnerships, and companies. Criteria shall be established to
10 certify laboratories that contract to perform analytical testing related to the
11 underground storage tank program. Owners and operators shall have all
12 required analytical testing performed by a certified laboratory to be eligible for
13 fund participation. Persons who contract with petroleum storage tank owners
14 or operators shall not be paid more than the amount authorized by the division
15 for reimbursement from the fund for the performance of corrective action. At
16 a minimum, the division shall promulgate administrative regulations that will
17 insure an unobligated balance in the fund adequate to meet financial assurance
18 requirements and corrective action requirements of KRS 224.60-135(2) and
19 (4). If the unobligated balance in the fund is not adequate to meet the
20 requirements of this paragraph, the division shall obligate funds necessary to
21 meet these requirements;

- 22 (b) Establish by administrative regulation the criteria to be met to be eligible to
23 participate in the financial responsibility and petroleum storage tank accounts
24 and to receive reimbursement from these accounts. The division may establish
25 eligibility criteria for the petroleum storage tank account based upon the
26 financial ability of the petroleum storage tank owner or operator. Owners or
27 operators seeking coverage under the petroleum storage tank account shall file

1 for eligibility and for financial assistance with the division. To ensure cost
2 effectiveness, the division shall promulgate administrative regulations
3 specifying the circumstances under which prior approval of corrective action
4 costs shall be required for those costs to be eligible for reimbursement from
5 the fund. In promulgating administrative regulations to carry out this section,
6 the division may distinguish between types, classes, and ages of petroleum
7 storage tanks and the degree of compliance of the facility with any
8 administrative regulations of the cabinet promulgated pursuant to KRS
9 224.60-105 or applicable federal regulations;

- 10 (c) Establish a financial responsibility account within the fund which may be used
11 by petroleum storage tank owners and operators to demonstrate financial
12 responsibility as required by administrative regulations of the cabinet or the
13 federal regulations applicable to petroleum storage tanks, consistent with the
14 intent of the General Assembly as set forth in KRS 224.60-120(5). The
15 account shall receive four-tenths of one cent (\$0.004) from the one and four-
16 tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received
17 in this state pursuant to KRS 224.60-145. To be eligible to use this account to
18 demonstrate compliance with financial responsibility requirements of the
19 cabinet or federal regulations, or to receive reimbursement from this account
20 for taking corrective action and for compensating third parties for bodily
21 injury and property damage, the petroleum storage tank owner or operator
22 shall meet the eligibility requirements established by administrative regulation
23 promulgated by the division;

- 24 (d) Establish a small operator assistance account within the fund which may be
25 used by the division to make or participate in the making of loans, to purchase
26 or participate in the purchase of the loans, which purchase may be from
27 eligible lenders, or to insure loans made by eligible lenders;

- (e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;
- (f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;
- (g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;
- (h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an appropriate reserve in the financial responsibility account and the petroleum

1 storage tank account sufficient to satisfy the obligations in each account for all
2 eligible facilities and to satisfy future liabilities and expenses necessary to
3 operate each account. The division shall, by administrative regulation, set the
4 entry level for participation in the fund;

- 5 (i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-
6 105 to 224.60-160, including reasonable costs of administering the fund, the
7 procurement of legal services, and the procurement of analytical testing
8 services when necessary to confirm the accuracy of analytical testing results
9 obtained by a petroleum storage tank owner or operator. The expenditures
10 shall be paid from the appropriate account;

- 11 (j) Establish a small operators' tank removal account within the fund to reimburse
12 the reasonable cost of tank system removal for small owners and operators.
13 The account shall not be used when an owner or operator is removing the tank
14 with the intention of replacing or upgrading the tank. In promulgating
15 administrative regulations to carry out this paragraph, the division may
16 distinguish among owners and operators based on income, number of tanks,
17 number of facilities, and types and classes of tanks;

- 18 (k) Establish by administrative regulation the policy, guidelines, and procedures
19 to perform financial audits of any petroleum storage tank owner or operator
20 receiving reimbursement from the fund or any entity contracting or
21 subcontracting to provide corrective action services for facilities eligible for
22 fund reimbursement. Financial audits shall be limited to those files, records,
23 computer records, receipts, and other documents related to corrective action
24 performed at a facility where the costs of corrective action have been
25 reimbursed by the fund. Files, records, computer records, receipts, and other
26 documents related to corrective action reimbursed by the fund shall be subject
27 to a financial audit for a period of three (3) years after the date of final

1 reimbursement from the fund. Results of the audits shall be protected from
2 disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may
3 be contracted for or personnel may be employed as needed to implement the
4 requirements of this paragraph;

5 (l) Be authorized to enter and inspect any facility intending to seek
6 reimbursement for the cost of corrective action to determine the
7 reasonableness and necessity of the cost of corrective action. The division may
8 collect soil or water samples or require storage tank owners or operators to
9 split samples with the division for analytical testing. Refusal to allow entry
10 and inspection of a facility or refusal to allow the division to collect or split
11 samples shall make the facility ineligible for fund participation;

12 (m) Have inspectors on site at all tank system removals. Failure to comply with
13 this provision shall make the facility ineligible for fund participation. A
14 petroleum storage tank owner or operator may request through certified mail
15 that the division schedule an inspector to be present at an upcoming tank
16 removal. If the request is made at least two (2) weeks before the time for the
17 removal and an inspector fails to be present at the time scheduled, the tank
18 removal may proceed without making the facility ineligible for fund
19 participation unless the owner is notified by the division no later than ten (10)
20 days prior to the proposed date that an inspector is not available on the
21 proposed date, in which event a representative of the division shall contact the
22 operator and schedule a new date. If no inspector is present at the rescheduled
23 date, the removal may then proceed without penalty; and

24 (n) Establish that the deadline for submission of final reimbursement requests
25 under the petroleum storage tank account is two (2) years after receipt of a no
26 further action letter.

27 (2) The division may advise the cabinet on the promulgation of administrative

1 regulations concerning petroleum storage tanks.

2 (3) The division may sue and be sued in its own name.

3 (4) The division may transfer funds from the petroleum storage tank account to the
4 small operator tank removal account as needed to satisfy the obligations, future
5 liabilities, and expenses necessary to operate that account. The division may transfer
6 funds to the financial responsibility account as needed to maintain within that
7 account sufficient funds to demonstrate financial responsibility and to ensure
8 payment of claims as provided in subsection (1)(c) of this section.

9 ➔Section 379. KRS 224.70-120 is amended to read as follows:

10 (1) As used in this section, "cabinet" shall mean the Energy and
11 Environment~~[Environmental and Public Protection]~~ Cabinet.

12 (2) An applicant for a permit to discharge pollutants into waters of the Commonwealth
13 shall be subject to a filing fee by the cabinet in the amount of twenty percent (20%)
14 of the discharge permit fee.

15 (3) An applicant for a permit to discharge pollutants into waters of the Commonwealth
16 shall be subject to a discharge permit fee by the cabinet upon receiving the cabinet's
17 determination that the permit will be issued and the fee shall be equal to the cost of
18 review but shall not exceed the following amounts:

19 (a) Major industry: three thousand two hundred dollars (\$3,200);

20 (b) Minor industry: two thousand one hundred dollars (\$2,100);

21 (c) Nonprocess industry: one thousand dollars (\$1,000);

22 (d) Large, non-publicly-owned treatment works: one thousand seven hundred
23 dollars (\$1,700);

24 (e) Intermediate, non-publicly-owned treatment works: one thousand five
25 hundred dollars (\$1,500);

26 (f) Small, non-publicly-owned treatment works: one thousand dollars (\$1,000);

27 (g) Agriculture: one thousand two hundred dollars (\$1,200); and

1 (h) Surface mining operation: one thousand two hundred dollars (\$1,200).

2 (4) The cabinet may impose the maximum fee if a discharge falls into multiple
3 categories.

4 ➔Section 380. KRS 224.71-110 is amended to read as follows:

5 (1) The Agriculture Water Quality Authority is created and administratively attached to
6 the cabinet. The authority shall be a multidiscipline peer group that shall evaluate,
7 develop, and improve best-management practices in conservation plans, compliance
8 plans, and forest stewardship management plans; establish statewide and regional
9 agriculture water quality plans; and otherwise promote soil and water conservation
10 activities that protect waters of the Commonwealth from the adverse impacts of
11 agriculture operations within the Commonwealth. The cabinet shall provide staff to
12 the authority.

13 (2) Within six (6) months of July 15, 1994, the Soil and Water Conservation
14 Commission shall submit to the Governor for appointment to the Agriculture Water
15 Quality Authority a list of three (3) persons recommended by each of the following
16 state agencies and organizations:

17 (a) Kentucky Association of Conservation Districts;

18 (b) Kentucky Department of Agriculture;

19 (c) University of Kentucky College of Agriculture Cooperative Extension
20 Service;

21 (d) Kentucky Farm Bureau Federation, Inc.;

22 (e) Division of Conservation, Energy and Environment~~Environmental and~~
23 ~~Public Protection~~ Cabinet;

24 (f) Division of Forestry, Energy and Environment~~Environmental and Public~~
25 ~~Protection~~ Cabinet;

26 (g) Kentucky Geological Survey; and

27 (h) Environmental organizations.

1 The membership of the Agriculture Water Quality Authority appointed by the
 2 Governor shall consist of one (1) representative from each of the groups identified
 3 in paragraphs (a) to (h) of this subsection and three (3) members at large from
 4 agriculture operations. The Soil and Water Conservation Commission shall solicit
 5 nominations from Kentucky agriculture operations organizations and submit those
 6 names to the Governor for selection of the three (3) members at large from
 7 agriculture operations. The Governor shall select four (4) members to serve two (2)
 8 year initial terms, four (4) members to serve three (3) year initial terms, and three
 9 (3) members to serve four (4) year initial terms. All succeeding terms shall be four
 10 (4) year terms. A representative from the United States Soil Conservation Service
 11 and a representative from the United States Agriculture Stabilization and
 12 Conservation Service may also be appointed by the Governor to serve on the
 13 authority. One (1) representative each from the Division of Water, Energy and
 14 Environment~~[Environmental and Public Protection]~~ Cabinet and the Division of
 15 Public Health Protection and Safety, Cabinet for Health and Family Services shall
 16 serve as ex officio members.

17 (3) It shall be the responsibility of the Agriculture Water Quality Authority to establish,
 18 at a minimum, the following four (4) committees for agriculture operations, with
 19 membership outside the Agriculture Water Quality Authority:

- 20 (a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;
- 21 (b) Crops, including but not limited to, tobacco, corn, soybeans, small grains,
 22 fruits and vegetables, pasture and timber;
- 23 (c) Pesticides, fertilizers, and other agricultural chemicals; and
- 24 (d) Farmstead issues.

25 (4) The Agriculture Water Quality Authority shall have the following responsibilities:

- 26 (a) Review water quality data as available;
- 27 (b) Review university research on water quality and alternative best-management

1 practices research;

2 (c) Evaluate the adoption and effectiveness of best-management practices, and
3 modify best-management practice design standards to improve water quality
4 protection practices;

5 (d) Develop by July 1, 1996, statewide agriculture water quality plans to address
6 identifiable water pollution problems from agriculture operations, and
7 continue to evaluate and modify the agriculture water quality plans, as
8 necessary to prevent water pollution from agriculture operations;

9 (e) Assist with the review of state-funded and other water quality monitoring data
10 and with the establishment of agriculture water priority protection regions;

11 (f) Provide technical assistance to persons engaged in agriculture operations and
12 to the Soil and Water Conservation Commission in its efforts to coordinate
13 water quality protection as related to agriculture operations;

14 (g) Work with the United States Soil Conservation Service, United States
15 Agriculture Stabilization and Conservation Service, and conservation districts
16 to disseminate to agriculture operations the best-management practices,
17 conservation plans, compliance plans, forest stewardship management plans,
18 and agriculture water quality plans which address the protection of
19 groundwater and surface water;

20 (h) Provide the Governor and the Legislative Research Commission with biennial
21 reports of the progress of the Agriculture Water Quality Authority program;
22 and

23 (i) Establish procedures for modifications to be incorporated into statewide or
24 regional agriculture water quality plans.

25 (5) The cabinet's Division of Water shall approve or disapprove any statewide and
26 regional water quality plan within thirty (30) days of receiving the plan from the
27 Agriculture Water Quality Authority. All provisions of a statewide or regional water

1 quality plan not found deficient shall be approved. If the Division of Water finds
 2 any provision of the statewide or regional agriculture water quality plan deficient,
 3 the Division of Water shall give written notice to the authority of those provisions
 4 found to be deficient. Within the thirty (30) days following the notice of deficiency,
 5 the authority shall deliver to the Division of Water a written response setting forth
 6 proposed solutions to the deficiencies. Any deficiencies which remain unresolved
 7 shall be resolved in a manner agreed to jointly by the Division of Water and the
 8 authority within sixty (60) days unless the Division of Water and authority jointly
 9 agree to an extension or alternate dispute resolution. The Division of Water shall
 10 approve or disapprove all modifications to the statewide and regional plans as set
 11 forth at KRS 224.71-120(8).

12 ➔Section 381. KRS 224.73-100 is amended to read as follows:

13 Any corporation authorized to do business in this state and organized for the purpose of
 14 constructing, maintaining and operating sewer lines and sewage treatment facilities may,
 15 if it is unable to contract or agree with the owner after a good faith effort to do so,
 16 condemn rights-of-way necessary for constructing, maintaining and operating its
 17 pipelines and, if necessary, pumping stations; and the necessary ingress and egress to
 18 examine, alter, repair and maintain such pipelines. The condemnation proceedings shall
 19 be conducted in the manner provided in the Eminent Domain Act of Kentucky. Provided,
 20 however, that before any corporation shall be authorized to use the provisions of this
 21 section, it shall have presented plans and specifications to the Energy and
 22 Environment~~[Environmental and Public Protection]~~ Cabinet and received from said
 23 cabinet a permit to operate and maintain said sewage treatment facilities together with an
 24 approval of the discharge of the treated effluent from said facilities to a specific point of
 25 the waters of this Commonwealth. Provided, further, that any person wishing to object to
 26 a pipeline or plant location subject to the provisions of this section shall have the right to
 27 have his objections heard by said cabinet pursuant to the provisions of KRS 224.10-440.

➔Section 382. KRS 224.73-110 is amended to read as follows:

- (1) The Kentucky Board of Certification of Wastewater System Operators is established. The board shall recommend qualified applicants to the cabinet for certification and perform such other acts as may be necessary to carry out the purposes of this section. Members of the board shall be appointed by the Governor. The board shall consist of eight (8) members who may have professional backgrounds as follows: one (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to wastewater treatment; one (1) nonvoting ex officio member representing the cabinet; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The cabinet's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.
- (2) No person shall have primary responsibility for the operation of any sewage system or portion thereof whether publicly or privately owned unless he has passed an examination prescribed by the Energy and Environment ~~Environmental and Public Protection~~ Cabinet and board which shall determine his skill and competency for such operation and has been issued a certificate to that effect by the cabinet.

- 1 (3) No person shall authorize or allow any person who does not hold a certificate issued
2 pursuant to subsection (2) of this section to have primary responsibility for the
3 operation of any sewage system or portion thereof.
- 4 (4) The cabinet, with the advice of the board of certification, may classify all sewage
5 systems and portions thereof in the manner provided by the rules and regulations of
6 the cabinet with regard to size, type, physical conditions affecting such systems or
7 portions thereof, and the skill, knowledge and experience required for the operation
8 of the system or portion thereof and restrict the application of any certificate issued
9 pursuant to subsection (2) of this section to the operation of a sewage system or
10 portion thereof of a specific class.
- 11 (5) Any person who has primary responsibility for the operation of a sewage system for
12 a school shall be entitled to a limited certificate of competency for his particular
13 system, provided he has demonstrated that he has the knowledge and experience
14 required to operate properly the particular sewage system for which he is
15 responsible. A limited certificate of competency so issued is not transferable to any
16 other sewage system, nor is the period of operation under such a limited certificate
17 eligible for consideration toward the experience requirements for a certificate of
18 competency as provided in subsection (2) of this section.
- 19 (6) All applicants for the examination and certification for the operation of any sewage
20 system or portion thereof, whether publicly or privately owned, shall pay a
21 reasonable schedule of fees and charges fixed by regulation. The fees required under
22 this section shall be payable to the cabinet.
- 23 (7) Operators shall have accumulated a minimum number of hours of appropriate board
24 approved training set by regulation for certificate renewal. Such training shall
25 include, but may not be limited to, correspondence courses, short courses, trade
26 association meetings, and on-the-job training. Training hours accumulated in any
27 given year in excess of the minimum requirement necessary for renewal may be

1 carried forward for a period not to exceed two (2) years.

2 (8) The board may waive any or all of the requirements of subsection (7) of this section
3 for all or portions of an established class of operators.

4 ➔Section 383. KRS 224.80-100 is amended to read as follows:

5 As used in this subchapter:

6 (1) "Activity and use limitations" means restrictions or obligations created under KRS
7 224.80-100 to 224.80-210.

8 (2) "Applicant" means a person applying to the cabinet for approval of an
9 environmental covenant.

10 (3) "Cabinet" means the Energy and Environment~~[Environmental and Public~~
11 ~~Protection]~~ Cabinet.

12 (4) "Common interest community" means a condominium, cooperative, or other real
13 property owned by a person as part of a parcel of real property for which there is an
14 obligation to pay property taxes, insurance premiums, or maintenance, or to make
15 improvements to the real property as described and established in a recorded
16 environmental covenant.

17 (5) "Environmental covenant" means a servitude arising under an environmental
18 response project that imposes activity and use limitations.

19 (6) "Environmental response project" means a plan or work performed for the
20 environmental remediation of real property conducted:

21 (a) Under a federal or state program governing environmental remediation of real
22 property including programs established pursuant to KRS 224.01-400, 224.01-
23 405, 224.46-530, and 224.01-450 to 224.01-465;

24 (b) Incident to closure of a solid or hazardous waste management unit, if the
25 closure is conducted with approval of the cabinet; or

26 (c) Under a Commonwealth voluntary cleanup program authorized under KRS
27 224.01-510 to 224.01-532.

- 1 (7) "Holder" means the grantee of an environmental covenant.
- 2 (8) "Indexing" means the practice or method kept by a county clerk's office to record
3 legal property transactions.
- 4 (9) "Interest" means all or part of a legal equitable claim to a right in real property
5 which shall include both possessory and nonpossessory interests.
- 6 (10) "Owner" means a person that owns a fee simple interest or any other interest in real
7 property that is subject to an environmental covenant.
- 8 (11) "Person" shall have the meaning specified in KRS 224.01-010(17).
- 9 (12) "Public notice" means the publication of required information in a daily or weekly
10 newspaper of major circulation located in the county or counties where the property
11 subject to the proposed environmental covenant is located. If there is no daily or
12 weekly newspaper of major circulation in the county or counties where the property
13 is located, public notice shall mean publication of required information in a daily or
14 weekly newspaper of major circulation in a county adjacent to the county or
15 counties where the property is located.
- 16 (13) "Subordination agreement" means an agreement affecting priority of interests in a
17 real property that is subject to an environmental covenant.
- 18 (14) "Servitude" means a right, burden, or restriction on the use of real property that
19 passes from the current owner or tenant to any owners or tenants in succession.

20 ➔Section 384. KRS 224.99-030 is amended to read as follows:

21 Any applicant or certificate holder who fails to provide the information required in KRS
22 224.01-310 or falsifies such information shall be liable for a civil penalty of not to exceed
23 the sum of one thousand dollars (\$1,000). The penalty shall be recoverable in an action
24 brought in the name of the Commonwealth of Kentucky by the ~~cabinet~~^{cabinet's Office of}
25 ~~Legal Services~~, or upon the secretary's request, by the Attorney General.

26 ➔Section 385. KRS 224A.011 is amended to read as follows:

27 As used in this chapter, unless the context requires otherwise:

- 1 (1) "Administrative fee" means a fee assessed and collected by the authority from
2 borrowers under assistance agreements, to be used for operational expenses of the
3 authority.
- 4 (2) "Applicable interest rate" means the rate of interest which shall be used as part of
5 the repayment criteria for an assistance agreement between a governmental agency
6 and the authority, and shall be determined by the authority pertinent to the source of
7 funds from which the assistance agreement is funded.
- 8 (3) "Assistance agreement" means the agreement to be made and entered into by and
9 between a governmental agency and the authority, as authorized by this chapter,
10 providing for a lease, loan, services, or grant to the governmental agency or for the
11 purchase of obligations issued by the governmental agency, and for the repayment
12 thereof to the authority by the governmental agency.
- 13 (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this
14 chapter.
- 15 (5) "Authority revenues" means the totality of all:
- 16 (a) Service charges;
- 17 (b) Utility tax receipts, to the extent not otherwise committed and budgeted by
18 the authority during any fiscal period of the authority;
- 19 (c) Any gifts, grants, or loans received, to the extent not otherwise required to be
20 applied;
- 21 (d) Any and all appropriations made to the authority by the General Assembly of
22 the Commonwealth of Kentucky, to the extent not otherwise required to be
23 applied;
- 24 (e) All moneys received in repayment of and for interest on any loans made by the
25 authority to a governmental agency, except as provided in KRS 224A.111,
26 224A.1115, and 224A.112, or as principal of and interest on any obligations
27 issued by a governmental agency and purchased by the authority, or as receipts

1 under any assistance agreement;

2 (f) The proceeds of bonds or long-term debt obligations of governmental
3 agencies pledged to the payment of bond anticipation notes issued by the
4 authority on behalf of the said governmental agency to provide interim
5 construction financing; and

6 (g) Payments under agreements with any agencies of the state and federal
7 government.

8 (6) "Borrower or borrowing entity" means any agency of the state or its political
9 subdivisions, any city, or any special district created under the laws of the state
10 acting individually or jointly under interagency or interlocal cooperative agreements
11 to enter into assistance agreements with the authority.

12 (7) "Community flood damage abatement project" means any structural or nonstructural
13 study, plan, design, construction, development, improvement, or other activity to
14 provide for flood control.

15 (8) "Construction" means and includes, but is not limited to:

16 (a) Preliminary planning to determine the economic and engineering feasibility of
17 infrastructure projects, the engineering, architectural, legal, fiscal, and
18 economic investigations, and studies necessary thereto, and surveys, designs,
19 plans, working drawings, specifications, procedures, and other actions
20 necessary to the construction of infrastructure or solid waste projects;

21 (b) The erection, building, acquisition, alteration, remodeling, improvement, or
22 extension of infrastructure or solid waste projects; and

23 (c) The inspection and supervision of the construction of infrastructure or solid
24 waste projects and all costs incidental to the acquisition and financing of
25 same. This term shall also relate to and mean any other physical devices or
26 appurtenances in connection with, or reasonably attendant to, infrastructure or
27 solid waste projects.

- 1 (9) "Dams" means any artificial barrier, including appurtenant works, which does or
 2 can impound or divert water, and which either:
- 3 (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the
 4 stream or watercourse at the downstream toe of the barrier, as determined by
 5 the Energy and Environment~~[Environmental and Public Protection]~~ Cabinet;
 6 or
- 7 (b) Has or will have an impounding capacity at maximum water storage elevation
 8 of fifty (50) acre feet or more.
- 9 (10) "Distribution facilities" means all or any part of any facilities, devices, and systems
 10 used and useful in obtaining, pumping, storing, treating, and distributing water for
 11 agricultural, industrial, commercial, recreational, public, and domestic use.
- 12 (11) "Energy and Environment~~[Environmental and Public Protection]~~ Cabinet" means
 13 the Kentucky Energy and Environment~~[Environmental and Public Protection]~~
 14 Cabinet, or its successor, said term being meant to relate specifically to the state
 15 agency which is designated as the water pollution agency for the Commonwealth of
 16 Kentucky, for purposes of the federal act.
- 17 (12) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as
 18 said federal act may be amended from time to time in the future, or any other
 19 enactment of the United States Congress providing funds that may assist in carrying
 20 out the purposes of the authority.
- 21 (13) "Federally assisted wastewater revolving fund" means that fund which will receive
 22 federal and state funds or the proceeds from the sale of revenue bonds of the
 23 authority for the purpose of providing loans to finance construction of publicly
 24 owned treatment works as defined in Section 212 of the federal act and for the
 25 implementation of a management program established under Section 319 of the
 26 federal act and for the development and implementation of a conservation and
 27 management plan under Section 320 of the federal act.

- 1 (14) "Governmental agency" means any incorporated city or municipal corporation, or
 2 other agency, or unit of government within or a department or a cabinet of the
 3 Commonwealth of Kentucky, now having or hereafter granted, the authority and
 4 power to finance, acquire, construct, or operate infrastructure or solid waste
 5 projects. This definition shall specifically apply but not by way of limitation to
 6 incorporated cities; counties, including any counties containing a metropolitan
 7 sewer district; sanitation districts; water districts; water associations if these
 8 associations are permitted to issue interest-bearing obligations which interest would
 9 be excludable from gross income under Section 103 of the Internal Revenue Code
 10 of 1986 as amended; sewer construction districts; metropolitan sewer districts;
 11 sanitation taxing districts; and any other agencies, commissions, districts, or
 12 authorities (either acting alone, or in combination with one another in accordance
 13 with any regional or area compact, or intergovernmental cooperative agreements),
 14 now or hereafter established in accordance with the laws of the Commonwealth of
 15 Kentucky having and possessing the described powers described in this subsection.
- 16 (15) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting
 17 from any process of industry, manufacture, trade, or business, or from the mining or
 18 taking, development, processing, or recovery of any natural resources, including
 19 heat and radioactivity, together with any sewage as is present therein, which
 20 pollutes the waters of the state, and specifically, but not by way of limitation, means
 21 heat or thermal differentials created in the waters of the state by any industrial
 22 processing, generating, or manufacturing processes.
- 23 (16) "Infrastructure project" means any construction or acquisition of treatment works,
 24 distribution facilities, or water resources projects instituted by a governmental
 25 agency or an investor-owned water utility which is approved by the authority and, if
 26 required, by the Energy and Environment~~Environmental and Public Protection~~
 27 Cabinet, Public Service Commission, or other agency; solid waste projects; dams;

1 storm water control and treatment systems; gas or electric utility; broadband
 2 deployment project; or any other public utility or public service project which the
 3 authority finds would assist in carrying out the purposes set out in KRS 224A.300.

4 (17) "Infrastructure revolving fund" means that fund which will receive state funds, the
 5 proceeds from the sale of revenue bonds of the authority or other moneys earmarked
 6 for that fund for the purpose of providing loans or grants to finance construction or
 7 acquisition of infrastructure projects as defined in this section.

8 (18) "Loan or grant" means moneys to be made available to governmental agencies by
 9 the authority for the purpose of defraying all or any part of the total costs incidental
 10 to construction or acquisition of any infrastructure project.

11 (19) "Market interest rate" means the interest rate determined by the authority under
 12 existing market conditions at the time the authority shall provide financial
 13 assistance to a governmental agency.

14 (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation
 15 note, revenue anticipation note, lease, or other obligation issued by a governmental
 16 agency under KRS 58.010 et seq. or other applicable statutes.

17 (21) "Person" means any individual, firm, partnership, association, corporation, or
 18 governmental agency.

19 (22) "Pollution" means the placing of any noxious or deleterious substances
 20 ("pollutants"), including sewage and industrial wastes, in any waters of the state or
 21 affecting the properties of any waters of the state in a manner which renders the
 22 waters harmful or inimical to the public health or to animal or aquatic life, or to the
 23 use, present or future, of these waters for domestic water supply, industrial or
 24 agricultural purposes, or recreational purposes.

25 (23) "Prioritization schedules" means the list of wastewater treatment works, distribution
 26 facilities and water resources projects which the Energy and
 27 Environment~~Environmental and Public Protection~~ Cabinet has evaluated and

1 determined to be of priority for receiving financial assistance from the federally
2 assisted wastewater revolving fund and the federally assisted drinking water
3 revolving fund, or the list of infrastructure projects which the authority has
4 evaluated and determined to be of priority for receiving financial aid from the
5 infrastructure revolving fund. The evaluation by the authority of infrastructure
6 projects for water systems shall be undertaken with input from the appropriate area
7 development district. The evaluation by the authority of infrastructure for
8 broadband deployment projects shall be undertaken with consideration given to
9 input from area development districts, telecommunications businesses, information
10 services, technology industries, governmental entities, and Kentucky-based
11 nonprofit organizations, including ConnectKentucky.

12 (24) "Solid waste project" means construction, renovation, or acquisition of a solid waste
13 facility which shall be instituted and owned by a governmental agency.

14 (25) "Recovered material" means those materials which have known current use, reuse,
15 or recycling potential, which can be feasibly used, reused, or recycled, and which
16 have been diverted or removed from the solid waste stream for sale, use, reuse, or
17 recycling, whether or not requiring subsequent separation and processing but does
18 not include materials diverted or removed for purposes of energy recovery or
19 combustion except refuse-derived fuel (RDF), which shall be credited as a
20 recovered material in an amount equal to that percentage of the municipal solid
21 waste received on a daily basis at the processing facility and processed into RDF;
22 but not to exceed fifteen percent (15%) of the total amount of the municipal solid
23 waste received at the processing facility on a daily basis.

24 (26) "Recovered material processing facility" means a facility engaged solely in the
25 storage, processing, and resale or reuse of recovered material but does not mean a
26 solid waste facility if solid waste generated by a recovered material processing
27 facility is managed in accordance with KRS Chapter 224 and administrative

1 regulations adopted by the cabinet.

2 (27) "Revenue bonds" means special obligation bonds issued by the authority as
3 provided by the provisions of this chapter, which are not direct or general
4 obligations of the state, and which are payable only from a pledge of, and lien upon,
5 authority revenues as provided in the resolution authorizing the issuance of the
6 bonds, and shall include revenue bond anticipation notes.

7 (28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be
8 imposed by a governmental agency, or by the authority, for any infrastructure
9 project financed by the authority, which service charge arises by reason of the
10 existence of, and requirements of, any assistance agreement.

11 (29) "Sewage" means any of the waste products or excrements, or other discharges from
12 the bodies of human beings or animals, which pollute the waters of the state.

13 (30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

14 (31) "Solid waste facility" means any facility for collection, handling, storage,
15 transportation, transfer, processing, treatment, or disposal of solid waste, whether
16 the facility is associated with facilities generating the waste or otherwise, but does
17 not include a container located on property where the waste is generated and which
18 is used solely for the purpose of collection and temporary storage of that solid waste
19 prior to off-site disposal, or a recovered material processing facility.

20 (32) "Solid waste revolving fund" means that fund which shall receive state funds, the
21 proceeds from the sale of revenue bonds of the authority, or other moneys
22 earmarked for the purpose of providing loans or grants to finance solid waste
23 projects defined in this section.

24 (33) "State" means the Commonwealth of Kentucky.

25 (34) "System" means the system owned and operated by a governmental agency with
26 respect to solid waste projects, treatment works, or infrastructure projects financed
27 as provided by the assistance agreement between the governmental agency and the

1 authority.

2 (35) "Treatment works" or "wastewater treatment works" means all or any part of any
3 facilities, devices, and systems used and useful in the storage, treatment, recycling,
4 and reclamation of wastewater or the abatement of pollution, including facilities for
5 the treatment, neutralization, disposal of, stabilization, collecting, segregating, or
6 holding of wastewater, including without limiting the generality of the foregoing,
7 intercepting sewers, outfall sewers, pumping power stations, and other equipment
8 and their appurtenances; extensions, improvements, remodeling, additions, and
9 alterations thereof, and any wastewater treatment works, including site acquisition
10 of the land that will be an integral part of the wastewater treatment process, or is
11 used for ultimate disposal of residues resulting from wastewater treatment, together
12 with any other facilities which are deemed to be treatment works in accordance with
13 the federal act.

14 (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which
15 fluctuates either automatically by reference to a predetermined formula or index or
16 in accordance with the standards set forth in KRS 224A.120.

17 (37) "Wastewater" means any water or liquid substance containing sewage, industrial
18 waste, or other pollutants or contaminants derived from the prior use of these
19 waters.

20 (38) "Water resources" means all waters of the state occurring on the surface, in natural
21 or artificial channels, lakes, reservoirs, or impoundments, and in subsurface
22 aquifers, which are available, or which may be made available to agricultural,
23 industrial, commercial, recreational, public, and domestic users.

24 (39) "Water resources project" means any structural or nonstructural study, plan, design,
25 construction, development, improvement, or any other activity including programs
26 for management, intended to conserve and develop the water resources of the state
27 and shall include all aspects of water supply, flood damage abatement, navigation,

1 water-related recreation, and land conservation facilities and measures.

2 (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds,
3 marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or
4 accumulations of water, surface and underground, natural or artificial, which are
5 situated wholly or partly within, or border upon, this state, or are within its
6 jurisdiction, except those private waters which do not combine or effect a junction
7 with natural, surface, or underground waters.

8 (41) "Utility tax" means the tax which may be imposed by the authority on every
9 purchase of water or sewer service in the Commonwealth of Kentucky.

10 (42) "Broadband deployment project" means the construction, provision, development,
11 operation, maintenance, leasing, or improvement of broadband infrastructure,
12 broadband services, or technologies that constitute a part of, or are related to,
13 broadband infrastructure or broadband services, to provide for broadband service in
14 unserved areas of the Commonwealth.

15 (43) "Unserved area" means any place where broadband service is not available.

16 ➔Section 386. KRS 224A.030 is amended to read as follows:

17 (1) There is hereby created the Kentucky Infrastructure Authority, which authority shall
18 be a body corporate and politic, constituting a public corporation and a
19 governmental agency and instrumentality of the state. The affairs of the authority
20 shall be managed and carried out by a board consisting of eleven (11) members. The
21 secretaries of the Economic Development, Finance and Administration, and Energy
22 and Environment ~~Environmental and Public Protection~~ Cabinets; the executive
23 director of the Public Service Commission; and the commissioner of the Governor's
24 Office for Local Development shall serve as ex officio members of the authority.
25 The secretaries, the executive director, and the commissioner may designate
26 alternates. The Governor shall additionally appoint six (6) at-large members. One
27 (1) member shall be selected from a list of three (3) nominees submitted by the

1 Kentucky Association of Counties, one (1) member selected from a list of three (3)
2 nominees submitted by the Kentucky League of Cities, one (1) member selected
3 from a list of three (3) nominees submitted by the Kentucky Rural Water
4 Association, one (1) member representing for-profit private water companies, one
5 (1) member selected from a list of three (3) nominees submitted by the Kentucky
6 section of the American Water Works Association, and one (1) member selected
7 from a list of three (3) nominees submitted by the Kentucky Municipal Utilities
8 Association. As the terms of the at-large members expire, the Governor shall
9 appoint successors for terms of four (4) years and until their successors are
10 appointed. The members shall constitute the Kentucky Infrastructure Authority,
11 with power in that name to contract and be contracted with, sue and be sued, have
12 and use a corporate seal, and exercise, in addition to the powers and functions
13 specifically stated in this chapter, all of the usual powers of private corporations to
14 the extent that the powers are not inconsistent with specifically enumerated powers
15 of the authority. In the carrying out of its purposes and the exercise by it of the
16 powers conferred by this chapter, the authority is deemed and declared to be
17 performing essential governmental functions and public purposes of the state.

18 (2) The members of the authority shall receive no compensation for their services in
19 their official capacity but shall be entitled to reimbursement for all reasonable
20 expenses necessarily incurred in connection with performance of their duties and
21 functions as authority members.

22 (3) Six (6) members of the authority shall constitute a quorum for the transaction of
23 business, and in the absence of a quorum, one (1) or more members may adjourn
24 from time to time until a quorum is convened. The members of the authority shall
25 choose from their ranks a chair and a vice chair. The authority shall elect a secretary
26 and a treasurer who shall not be members of the authority, each of whom shall serve
27 at the pleasure of the authority and shall receive compensation as may be

1 determined by the authority.

2 (4) (a) The authority shall, for administrative purposes, be attached to the Governor's
3 Office for Local Development, which shall provide any office space required
4 by the authority.

5 (b) The secretary of the authority shall at all times maintain therein complete
6 records of all of the authority's actions and proceedings which shall constitute
7 public records open to inspection at all reasonable times.

8 ➔Section 387. KRS 224A.111 is amended to read as follows:

9 (1) The federally-assisted wastewater revolving fund shall be established in the State
10 Treasury and shall be administered by the authority under an agreement with the
11 Energy and Environment~~[Environmental and Public Protection]~~ Cabinet to assure
12 compliance with the federal act.

13 (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated
14 solely to securing the payment of the principal of, interest on, and premium, if any,
15 of revenue bonds issued by the authority under subsection (5) of this section which
16 are to be secured solely by loan payments made by governmental agencies that have
17 been deposited in the fund, making transfers to the federally-assisted water supply
18 revolving fund, and providing financial assistance to government agencies for the
19 construction of publicly owned treatment works as defined in Section 212 of the
20 federal act and for the implementation of a management program established under
21 Section 319 of the federal act and for the development and implementation of a
22 conservation and management plan under Section 320 of the federal act.

23 (3) The authority may enter into grant agreements with the administrator of the United
24 States Environmental Protection Agency and accept capitalization grants for the
25 revolving fund in accordance with payment schedules established with the
26 administrator.

27 (4) All payments from the administrator pursuant to subsection (3) of this section shall

1 be deposited in the dedicated revolving fund.

2 (5) The authority may issue its revenue bonds or seek appropriations for deposit into
3 the revolving fund, including the amounts required to match the capitalization
4 grants from the administrator. An amount not exceeding the amount permitted by
5 the federal act may be used for the reasonable costs of administering the fund, for
6 reviewing and regulating project construction and for other reasonable costs of
7 complying with the federal act.

8 (6) The financial assistance which may be provided to governmental agencies by the
9 revolving fund shall be limited to:

10 (a) Making loans, on the condition that the loans are made at or below market
11 interest rates, including interest free loans; that annual principal and interest
12 payments will commence no later than when project construction is completed
13 and all loans will be fully amortized not later than twenty (20) years after
14 project construction is completed; that the recipient of a loan will establish a
15 dedicated source of revenue for repayment of loans; and that the fund will be
16 credited with all payments of principal and interest on all loans;

17 (b) Guaranteeing, or purchasing insurance for obligations of the fund where the
18 action would improve credit market access or reduce interest rates;

19 (c) Providing moneys with which to carry out the requirements of assistance
20 agreements; and

21 (d) Providing a source of revenue or security for the payment of principal and
22 interest on bonds or notes issued by the authority or agencies of the state if the
23 proceeds of the sale of the bonds will be deposited in the fund.

24 (7) The revolving fund shall be established, maintained and credited with repayments
25 and the fund balance shall be available in perpetuity solely for its stated purposes.

26 (8) The authority shall obligate all payments from the administrator of the United States
27 Environmental Protection Agency as well as the required state match, within one (1)

1 year after the receipt of the payments.

2 (9) Financial assistance may be provided from the fund only for those infrastructure
3 projects which the Finance and Administration Cabinet has approved from the
4 prioritization schedule prepared by the Energy and Environment~~[Environmental~~
5 ~~and Public Protection]~~ Cabinet.

6 (10) The authority may make and condition loans from the fund as required by state or
7 federal law.

8 (11) The authority shall establish fiscal controls and accounting procedures sufficient to
9 assure proper accounting during appropriate accounting periods for payments and
10 disbursements received and made by the revolving fund and for fund balances at the
11 beginning and end of the accounting period.

12 (12) The authority or the Energy and Environment~~[Environmental and Public~~
13 ~~Protection]~~ Cabinet may make or prepare any necessary or required plan or report.

14 (13) The authority or the Energy and Environment~~[Environmental and Public~~
15 ~~Protection]~~ Cabinet or the loan recipient shall make available to the administrator of
16 the United States Environmental Protection Agency records which the administrator
17 reasonably requires to review in order to determine compliance with any applicable
18 provision of law.

19 (14) The authority may enter into any necessary or required agreement and give or make
20 any necessary or required assurance or certification with any person to receive
21 payments or grants or to make or provide any financial assistance.

22 (15) The authority may enter into any necessary or required agreement with federal or
23 state agencies or persons to carry out the provisions of this section.

24 (16) If a loan is made from the federally-assisted wastewater revolving fund which will
25 finance the cost of facility planning and the preparation of plans, specifications, and
26 estimates for construction of publicly-owned treatment works, the state shall ensure
27 that if the recipient of the loan receives a grant under section 201(g) of the federal

1 act for construction of such treatment works and an allowance under section
 2 201(1)(l) of the federal act for nonfederal funds expended for the planning and
 3 preparation, the recipient shall promptly repay the loan to the extent of the
 4 allowance.

5 (17) Financial assistance may be provided from the federally assisted wastewater
 6 revolving fund only with respect to a project which is consistent with plans, if any,
 7 developed under Sections 205(j), 208, 303(e), 319, and 320 of the federal act, as
 8 amended.

9 (18) The authority shall require as a condition of making a loan or providing other
 10 assistance, as described in KRS 224A.100(6), from the fund that the recipient of the
 11 assistance shall maintain project accounts in accordance with generally-accepted
 12 governmental accounting standards.

13 (19) Assistance may be provided from the fund, other than under subsection (6)(a) of
 14 this section, to a governmental agency with respect to the nonfederal share of the
 15 costs of a treatment works project for which the governmental agency is receiving
 16 assistance from the administrator of the United States Environmental Protection
 17 Agency under any other authority only if the assistance, as determined by the
 18 Finance and Administration Cabinet, is necessary to allow the project to proceed.

19 ➔Section 388. KRS 224A.1115 is amended to read as follows:

20 (1) The federally-assisted water supply revolving fund shall be established in the State
 21 Treasury and shall be administered by the authority under an agreement with the
 22 Energy and Environment~~Environmental and Public Protection~~ Cabinet to assure
 23 compliance with the federal act.

24 (2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated
 25 solely to securing the payment of the principal of, interest on, and premium, if any,
 26 of revenue bonds issued by the authority under subsection (5) of this section which
 27 are to be secured solely by loan payments made by governmental agencies that have

1 been deposited in the fund, making transfers to the federally-assisted water supply
 2 revolving fund, and providing financial assistance to government agencies for the
 3 construction of publicly-owned water supply projects.

4 (3) The authority may enter into grant agreements with the administrator of the United
 5 States Environmental Protection Agency and accept capitalization grants for the
 6 revolving fund in accordance with payment schedules established with the
 7 administrator of the United States Environmental Protection Agency.

8 (4) All payments from the administrator of the United States Environmental Protection
 9 Agency pursuant to subsection (3) of this section shall be deposited in the dedicated
 10 revolving fund.

11 (5) The authority may issue its revenue bonds or seek appropriations for deposit into
 12 the revolving fund, including the amounts required to match the capitalization
 13 grants from the administrator of the United States Environmental Protection
 14 Agency. An amount not exceeding the amount permitted by the federal act may be
 15 used for the reasonable costs of administering the fund, for reviewing and regulating
 16 project construction and for other reasonable costs of complying with the federal
 17 act.

18 (6) The authority shall make any loan from the revolving fund subject to those
 19 conditions established by state or federal law.

20 (7) The revolving fund shall be established, maintained, and credited with repayments
 21 and the fund balance shall be available in perpetuity solely for its stated purposes.

22 (8) Financial assistance may be provided from the fund only for those infrastructure
 23 projects which the Finance and Administration Cabinet has approved from the
 24 prioritization schedule prepared by the Energy and Environment ~~Environmental~~
 25 ~~and Public Protection~~ Cabinet.

26 (9) The authority shall establish fiscal controls and accounting procedures sufficient to
 27 assure proper accounting during appropriate accounting periods for payments and

1 disbursements received and made by the revolving fund and for fund balances at the
2 beginning and end of the accounting period.

3 (10) The authority or the Energy and Environment~~Environmental and Public~~
4 ~~Protection~~] Cabinet may make or prepare any necessary or required plan or report.

5 (11) The authority or the Energy and Environment~~Environmental and Public~~
6 ~~Protection~~] Cabinet or the loan recipient shall make available to the administrator of
7 the United States Environmental Protection Agency records which the administrator
8 reasonably requires to review in order to determine compliance with any applicable
9 provision of law.

10 (12) The authority may enter into any necessary or required agreement and give or make
11 any necessary or required assurance or certification with any person to receive
12 payments or grants or to make or provide any financial assistance.

13 (13) The authority may enter into any necessary or required agreement with federal or
14 state agencies or persons to carry out the provisions of this section.

15 (14) If the loan is made from the federally-assisted water supply revolving fund which
16 will finance the cost of facility planning and the preparation of plans, specifications,
17 and estimates for construction of publicly-owned water supply projects, the state
18 shall ensure that if the recipient of the loan receives a grant under the federal act for
19 construction of those water supply projects and an allowance under the federal act
20 for nonfederal funds expended for the planning and preparation, the recipient shall
21 promptly repay the loan to the extent of the allowance.

22 (15) Financial assistance may be provided from the federally-assisted water supply
23 revolving fund only with respect to a project which is consistent with plans, if any,
24 developed under the federal act, as amended.

25 (16) The authority shall require as a condition of making a loan or providing other
26 assistance, as described in KRS 224A.100(6), from the fund that the recipient of the
27 assistance shall maintain project accounts in accordance with generally-accepted

1 governmental accounting standards.

2 (17) Assistance may be provided from the fund to a governmental agency with respect to
3 the nonfederal share of the costs of a water supply system project for which the
4 governmental agency is receiving assistance from the administrator of the United
5 States Environmental Protection Agency under any other authority only if the
6 assistance is necessary to allow the project to proceed, as determined by the Finance
7 and Administration Cabinet.

8 ➔Section 389. KRS 227.200 is amended to read as follows:

9 As used in KRS 227.200 to 227.400, unless the context otherwise requires:

10 (1) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~
11 of housing, buildings and construction;

12 (2) "Department~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and
13 Construction;

14 (3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by
15 fire, lightning, or explosion;

16 (4) "Owner" means any person who owns, occupies, or has charge of any property;

17 (5) "Property" means property of all types, both real and personal, movable and
18 immovable;

19 (6) "Rule" or "regulation" means a general order of the commissioner~~[executive~~
20 ~~director]~~, designed for the prevention of fire loss, which affects or may affect
21 property rights of a designated class of owners or for the prevention of fire loss by
22 certain indicated hazards;

23 (7) "Order" or "special order" means an order of the state fire marshal, designed for the
24 prevention of fire loss, that affects or may affect the property rights of a particular
25 owner or designated property.

26 ➔Section 390. KRS 227.205 is amended to read as follows:

27 The Department~~[Office]~~ of Housing, Buildings and Construction (hereinafter referred to

1 as the department~~[office]~~ of housing) is hereby created within the ~~{Cabinet for~~
 2 ~~Environmental and }Public Protection~~ Cabinet~~, Department of Public Protection]~~. The
 3 department~~[office]~~ shall be headed by a commissioner~~[an executive director]~~ appointed
 4 by the ~~{secretary of the Environmental and Public Protection Cabinet with the approval of~~
 5 ~~the }Governor~~ in accordance with KRS 12.040~~[12.050]~~, and who shall report to the
 6 secretary of the ~~{Cabinet for Environmental and }Public Protection~~ Cabinet. The office of
 7 the commissioner~~[executive director]~~ shall also include a deputy commissioner~~[director]~~
 8 and an executive assistant to the commissioner~~[executive director]~~, who shall be the
 9 policy making assistants to the commissioner~~[executive director]~~ and shall be appointed
 10 pursuant to KRS 12.050. The department~~[office]~~ shall consist of the Division of Fire
 11 Prevention, the Division of Building Codes Enforcement, ~~{the Division of Administrative~~
 12 ~~Services, }the Division of Plumbing, and the Division of Heating, Ventilation, and Air~~
 13 Conditioning (HVAC).

14 ➔Section 391. KRS 227.210 is amended to read as follows:

15 Any power, duty or function, whether ministerial, discretionary or whatever character,
 16 vested in or imposed upon the state fire marshal, by any provision of KRS 227.200 to
 17 227.410, 227.550 to 227.660, and 227.990 to 227.992 may be exercised, discharged, and
 18 performed by any deputy or assistant of the state fire marshal~~[marshal's office]~~ acting in
 19 the state fire marshal's name and by his delegated authority.

20 ➔Section 392. KRS 227.220 is amended to read as follows:

21 (1) The state fire marshal shall enforce or aid in the enforcement of all laws,
 22 administrative regulations, and ordinances of the state and its political subdivisions
 23 relating to fire loss as defined in KRS 227.200:

24 (a) The prevention or reduction of loss by fire or by other hazard or risk insured
 25 by property or casualty insurance companies doing business in this state,
 26 except as to disability insurance and workers' compensation, and shall enforce
 27 any other regulations or methods adopted for the prevention of loss from such

- 1 hazards or risks in order to promote the safety of persons or property;
- 2 (b) The manufacture, transportation, storage, sale, or use of combustibles,
- 3 explosives, and hazardous materials or equipment;
- 4 (c) The design, construction, and maintenance of property which has a direct
- 5 bearing on safety to life and property;
- 6 (d) The construction, installation, maintenance, or equipment of fire alarm
- 7 systems, fire protection and extinguishing equipment, and fire escapes and
- 8 other means of access to or exit from property; and
- 9 (e) Arson and related offenses.
- 10 (2) The chief state building official shall enforce and administer all applicable
- 11 provisions of the Kentucky Building Code, including all the provisions designed for
- 12 the prevention of fire loss, and shall have all the powers and duties awarded by KRS
- 13 Chapter 198B and the Kentucky Building Code.
- 14 (3) The state fire marshal is authorized to:
- 15 (a) Investigate the cause, origin, and circumstances of fires and explosions for the
- 16 purpose of detecting and suppressing arson and related offenses, or for the
- 17 purpose of minimizing or preventing fire loss;
- 18 (b) Supervise and make periodic inspections of all property within the state, and
- 19 assist cities having fire departments in making like periodic inspections of all
- 20 property in cities, except occupied private dwellings;
- 21 (c) Issue and enforce reasonable emergency orders and orders in accordance with
- 22 KRS 227.330 for the prevention of fire loss, and for the adoption, approval,
- 23 and installation of safety measures, remodeling, and equipment as will
- 24 minimize fire loss;
- 25 (d) Provide technical and engineering advice and assistance to state and local
- 26 governmental agencies in relation to fire prevention or fire protection;
- 27 (e) Direct and assist owners of educational institutions, places of public assembly,

institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;

(f) Conduct fire prevention and educational campaigns;

(g) Conduct examinations into the cause, origin, or circumstances of fire losses;

(h) Hold administrative hearings in accordance with the KRS Chapter 13B, as may be required by law or deemed by the state fire marshal necessary or desirable as to any matter within the scope of this chapter. All administrative hearings shall be public, unless the state fire marshal, or an authorized designee, determines that a private hearing would be in the public interest, in which case, and only with the consent of all parties to the hearing, the hearing shall be private;

(i) Direct research in the field of fire protection and accept gifts and grants for these purposes; and

(j) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(4) The state fire marshal shall head the Division of Fire Prevention in the department.

➔Section 393. KRS 227.230 is amended to read as follows:

The **commissioner**~~[executive director]~~ shall appoint a state fire marshal, who shall appoint such deputy fire marshals, assistants, and employees as are necessary to exercise, discharge, or perform any power, duty or function vested in, imposed upon, or delegated to the state fire marshal by law or regulation. The state fire marshal, under the general direction of the **commissioner**~~[executive director]~~, shall enforce and administer the provisions of this chapter and any other duties assigned by law or regulation. The chief of each fire department and the sheriff of each county shall be deemed deputies when ordered by the state fire marshal to act as such for their respective jurisdictions. Other

1 deputy fire marshals may be appointed from the members of the fire department as the
2 state fire marshal deems necessary.

3 ➔Section 394. KRS 227.300 is amended to read as follows:

4 (1) The commissioner~~[executive-director]~~ shall promulgate reasonable rules and
5 regulations based on good engineering practice and principles as embodied in
6 recognized standards of fire prevention and protection, providing for a reasonable
7 degree of safety for human life against the exigencies of fire and panic, and insuring
8 as far as is practicable against fire loss. Such rules and regulations shall be known
9 as the standards of safety. After promulgation of the Uniform State Building Code,
10 no part of the standards of safety shall establish, in whole or in part, any building
11 code other than the Uniform State Building Code, but the commissioner~~[executive~~
12 ~~director]~~ may supplement the Uniform State Building Code with fire safety
13 regulations designed to operate in conjunction with the code.

14 (2) In making such rules and regulations the commissioner~~[executive-director]~~ shall
15 establish minimum fire prevention and protection requirements, including but not
16 limited to requirements for design, construction, installation, operation, storage,
17 handling, maintenance, or use of the following: structural requirements for the
18 various types of construction; building restrictions within congested districts; exit
19 facilities from structures; fire alarm systems and fire extinguishing systems; fire
20 emergency drills; maximum occupancy loads and other requirements for buildings
21 of public assembly; flue and chimney construction; heating devices; boilers and
22 pressure vessels; electrical wiring and equipment; air conditioning, ventilating and
23 other duct systems; refrigeration systems; flammable liquids, oil and gas wells;
24 garages, repair, and service shops; application of flammable finishes, acetylene,
25 liquefied petroleum gas, and similar products; calcium carbide and acetylene
26 generators; dry cleaning and dyeing plants; flammable motion picture film;
27 combustible fibers; airports and airport buildings; hazardous chemicals; rubbish;

1 open flame devices; parking of vehicles; dust explosions; lightning protection; and
 2 other special fire hazards.

3 (3) For the purpose of integrating the need for safety from hazards of fire with the other
 4 safety needs of infants or preschool children under institutional care, the
 5 commissioner~~[executive director]~~ shall allow persons who own, manage, or are
 6 employed by institutions which provide care or education for infants or preschool
 7 children to participate in drafting the standards of safety as they apply to such
 8 institutions. Such participation shall be by representation of professional
 9 associations relating to infant and preschool care, and by representation from other
 10 individuals licensed to provide infant and preschool care, on a committee chaired by
 11 the state fire marshal or his or her designate. Such participation shall occur prior to
 12 the publication of proposed regulations in the administrative register pursuant to
 13 KRS 13A.050 but shall not limit any individual's right to use those procedures set
 14 forth in KRS Chapter 13A concerning comment on or protest of proposed
 15 regulations. All professional associations relating to infant and preschool care shall
 16 be notified by the commissioner~~[executive director]~~ when the drafting of standards
 17 of safety relating to such institutions is commenced and all such professional
 18 associations shall be regularly notified of the time and place of any meetings
 19 conducted by authorized employees of the department~~[office]~~ for the purpose of
 20 drafting such standards.

21 (4) The commissioner~~[executive director]~~ shall publish guidelines relating to the
 22 standards of safety as they apply to day care and preschool child care centers and
 23 nurseries which shall indicate the items inspectors from the Division of Fire
 24 Protection~~[office of the state fire marshal]~~ will be looking for when they conduct
 25 inspections pursuant to the standards of safety. Such guidelines shall be made
 26 available to persons who own, operate, or manage such centers or nurseries and
 27 shall be designed to enable said persons to anticipate and comply with the